

Statement of Licensing Policy Sex Establishments



South Tyneside Council

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South Tyneside Council Statement of Licensing Policy Sex Establishments

Preface

Section 27 of the Policing and Crime Act 2009 amends Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (the 1982 Act) to allow a Local Authority to introduce a licensing requirement for a "sexual entertainment venue". This brings the licensing of lap-dancing and pole-dancing clubs and other similar venues under the regime set out in the 1982 Act which has previously allowed only the regulation of sex shops and sex cinemas.

The Policy sets out South Tyneside Council's approach to the regulation of all types of sex establishments both new and old, and the procedure it will adopt in relation to applications for sex establishment licences.

The Policy is intended as a guide to Applicants, licence holders, people who want to object to applications and members of the Regulatory Committee who are responsible for determining contested applications.

The Policy is further intended to reassure the general public of the transparency and consistency in decision making intended by the Council.

The Policy gives Applicants an early indication of what is expected of themselves in both applying for and operating a licence as well as guidance as to the factors which will or may influence the Council's decision, albeit each application will be taken into account on its own individual merits.

The role of the Council in its position under the 1982 Act is to administer the licensing regime in accordance with the law and not in accordance with moral standing. The Council recognises that Parliament has made it lawful to operate sex establishments and that such businesses are a legitimate part of the retail and leisure industries.

Introduction

South Tyneside Council adopted Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 ("the 1982 Act") on the 22nd November 1982 to enable the Council to licence sex shops and sex cinemas within the Borough.

Adoption of the amendments under Section 27 of the Policing and Crime Act 2009 ("the 2009 Act") as permitted by Schedule 3 of that Act became effective on the 14th May 2012 and enables the Council to licence sexual entertainment venues as an additional type of sex establishment licensed within the Borough.

This Policy will therefore apply to all 3 types of sex establishments which are within the control of the Council within the Borough of South Tyneside namely sex shops, sex cinemas and sex entertainment venues.

The Council consulted widely on the adoption of this Policy and took account of the views of all persons commenting upon the same.

The Policy endeavours to provide better regulation of any sex establishments which are currently operating or would seek to establish themselves in the Borough and endeavours to ensure accountability and transparency of all organisations wishing to pursue legitimate business interests in the sex industry in the Borough of South Tyneside.

Part A – General Matters

1. Application of Policy

1.1 This Policy applies to all forms of sex establishments within the Borough of South Tyneside that is:

- sex shops;
- sex cinemas; and
- sexual entertainment venues.

1.2 This Policy came into force on 14th May 2012 and will be reviewed from time to time as deemed necessary but at least once every 5 year period.

2. Policy Consultees

2.1 In particular the Council consulted with:-

- Northumbria Police;
- Tyne and Wear Fire Authority;
- Members and representatives of the trade (including current premises licence holders under the Licensing Act 2003 who will be affected by this Policy);
- Local businesses/residents and persons representing them;
- Other organisations and individuals locally and nationally with an interest in the regulation of sex establishments.

2.2 The views of all those persons and bodies listed in the Appendix 1 were sought on the draft of this Policy and their comments were given due consideration and weight in preparing the final document.

2.3 In order to provide best practice and consistency, the Council also had regard to the Home Office Guidance, issued in relation to sexual entertainment venues, when preparing this Policy.

3. Administration and Delegation

3.1 In November 1982 the Council's then Licensing Committee proposed the adoption of the provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 ("the 1982 Act") which were accepted by both the Environmental Health Committee and then Full Council on the 22nd November 1982.

3.2 All matters appertaining to the 1982 Act are currently administered by the Council's Regulatory Committee who have delegated responsibility for all licensing functions of the Council which are not within the remit of the "Licensing Committee" which the Council was statutorily required to establish under the Licensing Act 2003 ("the 2003 Act") for the purpose of administering its newly stated functions concerning alcohol, regulated entertainment and late night refreshment licensing from September 2005.

3.3 The Regulatory Committee continues to be responsible for the licensing and administration of sex establishments in the Borough. Officers with delegated authority in relation

to the functions of both the Licensing and Regulatory Committees operate in the Council's "Licensing Section".

3.4 For the purpose of speed and efficiency the Regulatory Committee have delegated all of its administrative and non-contentious functions to its Licensing Officers and those matters and the functions which it retains to itself are set out in the table in Appendix 2. Delegation does not preclude any matter being referred to Full Committee for consideration.

4. Regulatory Committee

4.1 The Council's Regulatory Committee is comprised of a membership of 10 to 15 persons but will sit in a sub-committee of 3 members for the purpose of determining any sex establishment licence applications which are contentious and are referred to it for determination.

4.2 Ward Members for the location within which any application is concerned will not sit as members of the sub-committee determining the application and neither will a sub-committee comprise of any members of the Regulatory Committee who have declared an interest in an application in accordance with the rules of Good Governance.

4.3 Unless there are compelling reasons to the contrary the Regulatory Committee or any of its sub-committees will meet in public, although members will retire into private session to consider their decision.

5. Objectives and Principal Considerations of the Policy

5.1 The aim of the Council through this Policy is to permit the licensing of well run sex establishments in appropriate locations within the terms of the Local Government (Miscellaneous Provisions) Act 1982 (as amended by the Policing and Crime Act 2009) so as to ensure that any premises licensed by it does not contribute directly or indirectly to crime or disorder or to harm to individuals or groups of persons, whether adults or children, or cause a nuisance or nuisances (to be interpreted in the widest sense) to local communities.

5.2 The Council do not, within this Policy, impose a limit on the number, or types of, sex establishment licences that will apply to all or any parts of the Borough of South Tyneside but instead will consider any individual application on its merits at the time the application is made.

5.3 Nevertheless the Council is mindful of the possible concerns that Local Communities often have in regard to applications for sex establishments and in particular the potential for increased crime, anti-social behaviour, noise pollution and general disturbance to residents which can ensue from the location of a single premises or multiple numbers of these types of premises in close proximity to both residential and business properties.

5.4 Accordingly the Council will always have particular regard to the amenity of local residents and businesses when considering an application for a sex establishment licence and generally will not grant a licence for a premises in close proximity to:-

- areas of predominantly residential accommodation, including sheltered housing and vulnerable people;
- all types of educational establishments used primarily by or for children under the age of 16 years;
- religious buildings such as churches, church halls and other places of worship;
- community facilities and public buildings such as a swimming pool, library, leisure centre, public park or other like establishments which are regularly attended by unsupervised young people under the age of 16 years or other vulnerable persons;
- access routes to and from premises and places listed above;
- existing licensed sex establishment premises.

5.5 Terms and conditions upon which licences will be issued will focus on achieving the objectives stated above with reference to:-

- matters within the control of individual licensees;
- the specific premises and the places used;
- the facility of those premises and places;
- the direct impact of the activity taking place at the licenced premises on public who live, work and carry out normal activity in the area concerned.

5.6 In terms of the premises appearance and layout the Council expects premises to:

- have an external appearance which is in keeping with the locality;
- have no external advertising;
- have adequate lighting to allow monitoring of all public places;
- have effective surveillance of the whole premises by CCTV during times the premises is open to the public.

6. Interaction with the Licensing Act 2003

6.1 Prior to the adoption of the amendments which the Policing and Crime Act 2009 ("the 2009 Act") have made to the 1982 Act it was necessary for any person who conducted, what is commonly referred to as lap-dancing, pole-dancing or other entertainment of a like kind, to obtain a licence for this type of "regulatory entertainment" under the Licensing Act 2003 ("the 2003 Act").

6.2 Schedule 7 to the 2009 Act amends the 2003 Act so that where there is in existence a requirement to obtain a sexual entertainment venue licence then the kind of activity permitted by that Licence is specifically excluded from being regarded as "regulated entertainment" under the 2003 Act and you do not also need a premises licence, club premises certificate or temporary events notice, when the sexual entertainment is taking place, for that activity.

6.3 However, if the premises licensed as a sexual entertainment venue also carries on other licensable activities within the meaning of the 2003 Act (e.g. the sale of alcohol, other types of regulated entertainment or late night refreshment), it will nevertheless continue to require a premises licence, club premises certificate or temporary event notice under the 2003 Act for those other activities, subject to any exceptions contained in the 2003 Act.

6.4 In practice this will mean that the vast majority of lap-dancing clubs and similar venues will require both a sexual entertainment venue licence for the provision of what is now referred to as "relevant entertainment" under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 and a premises licence or club premises certificate for the sale of alcohol or provision of other types of regulated entertainment under the Licensing Act 2003.

6.5 Premises which fall under the exception created for infrequent entertainment (see Part B Para 5 below) do not require a sexual entertainment venue licence but will instead need an appropriate authorisation under the 2003 Act for example to cover the performance of dance and/or the playing of recorded or live music whether or not this is accompanying the performance of dance in these circumstances.

6.6 There are transitional arrangements which apply to those persons currently licensed under the 2003 Act who will find themselves required to become licensed under the newly adopted provisions of Schedule 3 of the 1982 Act. The transitional arrangements are referred to in Part D of this Policy.

7. The Human Rights Act 1988

7.1 The Human Rights Act 1988 incorporates the European Convention on Human Rights and makes it unlawful for a Local Authority to act in a way that is incompatible with a convention right. The Council accepts that in determining applications for Sex Establishments the Regulatory Committee will have regard to the following particular convention rights:-

Article 1, Protocol 1 – that every person is entitled to the peaceful enjoyment of their possessions, including, for example, the possession of a Licence.

Article 6 – that in determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.

Article 8 – that everyone has the right to respect for their home and private life.

Article 10 – that every person is entitled to freedom of expression

8. The Disability Discrimination Act 1995

8.1 The Disability Discrimination Act 1995 introduced measures

to tackle discrimination encountered by disabled people in the areas of employment, access to goods, facilities and services and the management, buying or renting of land or property.

- 8.2 For service providers, such as Licensees, this means:-
- It has been unlawful to treat disabled people less favourably than other people for a reason related to their disabilities;
 - Reasonable adjustments should be made for disabled people such as providing extra help or making changes to the way they provide their services; and
 - Reasonable adjustments should be made to the physical features of premises which are open to the public.

8.3 The Council expect that these matters will be taken into consideration in determining any licence application.

9. Partnerships and Local Strategies

9.1 The Council works in partnership with many Agencies for the improvement of health, business, family life, child protection, transport networks and for the reduction of crime and disorder and will expect any decision to be taken by the Regulatory Committee to reflect its partnership working and be in compliance with the Local Government Regulation Partnership Working Guidance.

9.2 The Council also has in place both tourism and cultural strategies which have been considered in the drafting of this Policy Statement. Where appropriate, the Regulatory Committee will consider the needs of the local tourist economy and the cultural strategy for the area in question in considering Licensing Applications.

Part B - Licence Summaries

1. 'Sex Establishments'

1.1 this is a generic phrase to describe, in either the singular or plural, a sex shop, a sex cinema or a sexual entertainment venue, each of which require a separate licence for the purpose of the legislation.

2. Sex Shops

2.1 A sex shop licence is required where any premises, vehicle, vessel or stall used for a business which consists to a significant degree of:-

(a) selling, hiring, exchanging, lending, displaying or demonstrating "sex articles" or other things which stimulate or encourage sexual activity or acts of force or restraint which are associated with sexual activity.

2.1 The sale or supply of DVDs and other recordings that are certified 18R can be legitimately sold through a sex shop licence. It is an offence under the Video Recordings Act 1984 to make such sales without a licence.

2.2 The term "sex article" is defined by the 1982 Act (see Appendix 8) but the phrase "significant degree" is not.

The Council expect the Sub-Committee to consider the following factors in determining whether or not a business is operating to a significant degree:-

- the ratio of sex articles to other aspects of the business;
- the absolute quantity of sales;
- the character of the remainder of the business;
- nature of the displays in the business premises;
- the turnover of the business;
- any other factors that appear to be materially relevant.

3. Sex Cinemas

3.1 A sex cinema licence is required where any premises, vehicle, vessel or stall is used to a "significant degree" for the exhibition of moving pictures which are concerned primarily with the portrayal of, or primarily deal with or relate to, or are intended to stimulate or encourage sexual activity, acts of force or restraint which are associated with sexual activity or are concerned primarily with the portrayal of, or primarily deal with or relate to, genital organs or urinary or excretory functions.

3.2 The term "display of nudity" is defined by the 1982 Act (see Appendix 8) but the phrase "significant degree" is not. When considering whether or not a premises is exhibiting moving pictures that require a sex cinema licence the Council will have regard to:-

- The ratio of exhibitions of moving pictures that relate to material that is designed to stimulate or encourage sexual activity etc to those which are not designed for this purpose.
- The overall character of the business.
- The ratio of attendance at films, the material of which is designed to stimulate or encourage sexual activity etc against those which are not.
- Any other factors that appear to be materially relevant.

4. Sexual Entertainment Venues

4.1 A Sexual Entertainment Venue Licence is required for any premises, vehicle, vessel or stall at which "relevant entertainment" is provided before a live audience (which can constitute only one person) for the financial gain of the organiser or the entertainer.

4.2 The term "relevant entertainment" is defined by the 1982 Act (see Appendix 8). It applies to any live performance or live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of an audience. In deciding whether entertainment complies with this definition the Council require each application to be dealt on its own merits, but would nevertheless expect that relevant entertainment would apply to the following forms of entertainment, as they are commonly understood:-

- lap dancing;
- pole dancing;
- table dancing;
- strip shows;
- peep shows;
- live sex shows.

4.3 Whilst the above list is not exhaustive ultimately decisions to licence premises as sexual entertainment venues will depend upon the content of the entertainment provided and not the name it is given.

4.4 The terms “display of nudity” and “the organiser” are both defined in Schedule 3 of the 1982 Act (see Appendix 8).

5. Exemptions

5.1 The Council recognise that the following are not sexual entertainment venues, these are:-

- Sex shops and sex cinemas.
- Premises which provide relevant entertainment on an infrequent basis, namely premises where:-

(a) no relevant entertainment has been provided on more than 11 occasions within a 12 month period;

(b) no such occasion has begun within a period of one month beginning with the end of the previous occasion; and

(c) no such occasion has lasted longer than 24 hours.

- Other premises or types of performances or displays exempted by an Order of the Secretary of State.

5.1 Premises which provide relevant entertainment on an infrequent basis will continue to be regulated under the Licensing Act 2003 insofar as they are providing regulated entertainment under that Act.

5.2 The requirement for a sex establishment licence does not apply to the sale, supply or demonstration of articles which

- are manufactured for use primarily for the purposes of birth control
- primarily relate to birth control

6. Waiver of the Licences

6.1 Paragraph 7 of Schedule 3 to the 1982 Act contains a provision whereby the requirement for a licence for a sex establishment can be waived by an Authority in circumstances where they consider that to require a licence would be unreasonable or inappropriate.

6.2 A waiver can be for such period as the Authority think fit and may be terminated by the Authority on 28 days notice.

6.3 Applications to waive the requirement for a licence must be submitted in writing to the Authority giving the same level of detail as is required on a full application and also providing detailed reasons as to why the Applicant believes

that a waiver should be granted in the circumstances. Economic factors will generally not be sufficient to justify a waiver being granted as this Council aims to set its fees for sex establishment licences at a reasonable level to balance the financial impact on licensees with costs of regulation and enforcement.

Part C – The Application Process - Monitoring

1. Requirement for Licences for Sex Establishments

1.1 In the Borough of South Tyneside no person can use any premises, vehicle, vessel or stall as a Sex Establishment except under and in accordance with the terms of a Licence granted under Schedule 3 of the 1982 Act by the Council.

1.2 There are three types of sex establishment licence available:-

Sex shop;
Sex cinema;
Sexual entertainment venue.

2. Types of Application

2.1 There are four types of Application available for each type of licence. These are:-

New Application (Grant)
Renewal Application
Transfer Application
Variation Application

3. Grant, Renewal and Transfer Applications

3.1 Any person, corporate body or unincorporated body may apply for the Grant, Renewal or Transfer of a Licence which must be made in writing, having completed and provided all of the information requested in the application form at Appendix 3 of this Policy.

3.2 If the Council's Application Form is not completed in full the application will be deemed invalid.

3.3 The Application Form stipulates those particulars which are required under Paragraph 10(2) to (5) of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 and such other particulars as the Council have reasonably required, by virtue of the 1982 Act.

3.4 The information requested in the application form allows the Council to verify the identity of the Applicant and determine whether they are fit and proper persons, suitable to hold such a licence.

3.5 An Application can be made:-

- By post or personal service by forwarding the completed Application Form and appropriate fee to: Licensing Team, Town Hall and Civic Offices, Westoe Road, South Shields, Tyne and Wear, NE33 2RL.

- On line by forwarding the Application and appropriate fee to www.southtyneside.gov.uk.
 - By E-mail to licensing@southtyneside.gov.uk. On receipt of the appropriate fee the application will be progressed.
- 3.6 A public notice of the Application for the grant, renewal or transfer of a Sex Establishment Licence must be given by publishing an advertisement in a local newspaper circulating in the Borough of South Tyneside. The notice must be published no later than seven working days after the Application has been validly submitted to the Council. Where it relates to premises it must identify the premises or if it relates to a vehicle, vessel or stall it must specify where the vehicle, vessel or stall is going to be used as a Sex Establishment.
- 3.7 If the Application relates to premises then in addition to the public advertisement referred to above notice of the application, identifying the premises, must also be displayed for 21 days, beginning with the day of the application, in a location at the premises where it can easily be read by members of the public.
- 3.8 Notices to be displayed on the premises or advertised publicly in a newspaper must be in the form stipulated in Appendix 4 of this Policy. A copy of the advertisement displayed and/or the newspaper in which the public advertisement is printed must be supplied to the Local Authority for the purposes of enabling them to verify completion of the application requirements.
- 3.9 In relation to applications posted or delivered to the Council the Applicant must serve a copy of the grant, renewal or transfer application for a licence upon the Chief Officer of Police (whose details are provided in Appendix 5 below) not later than seven days after the date of application.
- 3.10 In relation to applications submitted by electronic means the Council will forward a copy of the application to Northumbria Police within seven days of the date of the application.
- 3.11 Applicants are advised that for the purpose of informing members the Council send notification of all licensing applications to all Council Members.
- 3.12 The Council are required to allow a period of 28 days after the date of the application for any person to object to the grant, renewal or transfer application. Objections must be submitted in writing and will be considered in accordance with paragraph 4 below.
- 3.13 Every application for the grant of a Licence must be submitted with both a location plan and detailed plans of the premises (in a scale of 1:100 (1cm-1m) unless a different scale is agreed with the Council in advance) containing the following information:-
- The location of the extent of the boundary of the building, if relevant, and any external and internal walls which comprise the premises or in which the premises is comprised.
 - The location of points of access into and out of the premises.
 - If different the location of escape routes from the premises.
 - 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.
 - In the case where the premises includes a stage or raised area, the location and height of each stage or area relative to the floor.
 - In the case where the premises includes any steps, stairs, elevators or lifts, the location of those steps, stairs, elevators or lifts.
 - In the case of sex entertainment venues areas in which relevant entertainment is to be provided.
- 3.14 Every application for a Licence must be completed with the correct fee as set by the Council (see paragraph 5 below) and as part of the application process the premises may be inspected by an Officer of the Licensing Team who will contact the Applicant directly to arrange this.
- 3.15 If one or more of the application criteria are not met the application will be deemed invalid and the Applicant notified. The Applicant will then be allowed to submit/resubmit the required documents and if these are provided within a reasonable length of time (to be determined by the Licensing Officers) the Application will be deemed valid from the day they are received. The Applicant may then be required to re-advertise the Application at the premises and in the local newspaper, stating the new consultation period.
- 3.16 If the reason for invalidity is not remedied within a reasonable length of time the Application will be determined as permanently invalid and will not be progressed any further. The Applicant may apply for a refund for the application fee, which will be refunded in full minus the Council's costs. Should the Applicant wish to gain a Licence at any point in the future a completely new application along with the relevant fee must be submitted.
- 4. Objections and Observations on Licensing Applications**
- 4.1 The range of persons who may raise objections to the grant, renewal or transfer of a Sex Establishment Licensing Application is very wide and encompasses "any person", but the objections raised should be relevant to the grounds which the Council may consider in determining the Application (see paragraph 6 below).
- 4.2 The Police, however, are the only Statutory Consultee

- and the Council acknowledge that not only can the Police object to an Application, in the same manner as all other persons, but they can uniquely make "observations" which the Council are obliged to take into consideration.
- 4.3 Any person wishing to object to an Application must give notice in writing to the Council, stating in general terms the grounds of the objection, not later than 28 days after the date of the Application. All objections must be addressed to: The Licensing Section, South Tyneside Council, Town Hall & Civic Offices, Westoe Road, South Shields, NE33 2RL or alternatively may be submitted by electronic means in accordance with paragraph 3.5 above.
- 4.4 Any petitions shall bear the prayer of that petition on each page and a warning to potential signatories that a copy of the petition will be supplied by the Council to the Applicant and that they consent to disclosure of their details to the Applicant by putting their name/address on the petition. Each person signing must print their name and address. Each page of the petition should be dated.
- 4.5 Representations must not be frivolous or vexatious and must not relate to moral grounds as these are outside the scope of the 1982 Act. Decisions of whether objections are frivolous or vexatious are delegated to Officers who will make a determination objectively and not on the basis of any political judgment.
- 4.6 If a valid objection is received to the grant, renewal or transfer of a Licence the Council will not consider the Application until the Applicant has been given notice in writing of the general terms of the objection received. In giving such notice, the Council acknowledge that all individual objections must remain anonymous and the Licensing Section will not reveal the name or address of the objecting party without that persons consent.
- 4.7 The Applicant may respond in writing to any objections received against the application.
- 4.8 Unless the objection relates to the character of the Applicant the Council may seek to mediate between the parties to see if agreement can be reached prior to a Sub-Committee Hearing.
- 5. Fees**
- 5.1 The fees for applying for the grant, renewal or transfer of a Sex Establishment Licence are detailed at Appendix 6 of this Policy.
- 5.2 The fees are non-refundable and include the cost of inspection of premises, processing the applications and where appropriate hearings before a Committee or Sub-Committee.
- 5.3 The fees will be reviewed annually against any rise or reduction in cost of administering the licensing regime.
- 6. Factors Relevant to Determining Applications for Grant, Renewal or Transfer of Licences**
- 6.1 Under the 1982 Act the Council recognises that they are obliged to refuse any application where:-
- (a) the Applicant is under the age of 18 years; or
 - (b) the Applicant is a person who is disqualified from holding or obtaining a licence under the Act; or
 - (c) the Applicant is a person who has not been resident in the European Economic Area for the preceding 6 months before the application was made; or
 - (d) the Applicant is a body corporate which is not incorporated in the European Economic Area; or
 - (e) the Applicant is a person who has, within a period of 12 months of making an application been refused the grant or renewal of a licence in respect of the premise, vehicle, vessel or stall subject to the application, unless the decision was reversed on appeal.
- 6.2 The Council recognises that they have discretion as to whether or not to refuse an application for the grant or renewal of a licence on all or any of the following grounds but for only the first two reasons if the application is for a transfer of the licence. The grounds are:-
- (a) That the Applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason.
 - (b) That if the licence were 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 a licence if they made the application themselves.
 - (c) That the number of sex establishments in the relevant locality at the time the application is made (determined) is equal to or exceeds the number which the Council consider is appropriate for that locality (bearing in mind that the Act recognises that nil may be an appropriate number for any locality).
 - (d) That the grant or renewal of the licence would be inappropriate having regard to:-
 - (i) the character of the relevant locality; or
 - (ii) the use to which any premises in the vicinity are put; or
 - (iii) the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.
- 6.3 All objections raised in relation to any licensing application should be relevant to the grounds stated above and must not be based on moral grounds or any other values.

6.4 Decisions to refuse licences will be determined at a hearing conducted as set out in Clause 11 below and all decisions will be relevant to one or more of the above grounds.

6.5 Decisions in relation to all applications will take into consideration the following:-

- The Local Government (Miscellaneous Provisions) Act 1982.
- Any Regulations or orders arising from the 1982 Act.
- The Home Office Guidance on sexual entertainment venues or any guidance replacing the same.
- This Statement of Licensing Policy.
- Any other legislation or guidance considered appropriate.

6.6 In granting, renewing or transferring a licence the Council expect that the Regulatory Committee will attach such terms, conditions or restrictions to any licence which they consider appropriate in the particular circumstances.

6.7 In addition to the specific terms, conditions or restrictions imposed on any individual licence application by the Regulatory Committee the Council has prescribed certain standard conditions which will apply generally to all licences for sex establishments granted, renewed or transferred by it. The conditions make different provision for the different types of licences and are set out in Appendix 7 to this Policy.

6.8 Subject to the above considerations the Council expect that:-

- valid applications with no representations will be approved under delegated authority to officers;
- valid applications with representations, recommending conditions be attached to the licence and which are acceptable to both the Applicant and Objectors, can be approved under delegated authority to officers;
- all other valid but contested applications will be referred to the Licensing Committee for determination.

7. Duration of Licences Granted, Renewed or Transferred

7.1 The Council expect that generally all licences will be issued for a period of one year but recognise that, if appropriate, the Regulatory Committee may grant a licence for a shorter period.

7.2 Where the holder of a licence makes an application for its renewal or transfer (with the appropriate fee) before the current licence expires it will be deemed to remain in force until its withdrawal or determination by the Authority. The date of the licence if renewed or transferred will be from the date after the day of expiry of the original licence.

7.3 The Council will cancel any licence at the written request of the holder of the licence.

8. Variation Applications

8.1 The holder of a licence may at any time apply to the Council for variation of any term, condition or restrictions on or subject to which the licence is held and as they specify in the application.

8.2 On receipt of the variation application the Council may:-

- make the variation applied for; or
- make such variation as they think fit; or
- refuse the application.

8.3 Where in the opinion of a Licensing Officer the variation applied for is unlikely to have any material or significant impact on the operation of the licence, the Council expect that the variation will be granted under delegated powers. If the officer considers that there is likely to be a material or significant impact on the operation of the licence the Council direct that the variation will be considered before a hearing of the Regulatory Committee or its Sub-Committee.

9. Revocation of Licences

9.1 The Council acknowledge that once issued a licence can be revoked at any time on any one of the grounds set out in paragraph 6.1 above or on either of the first two grounds specified in paragraph 6.2 above provided that:-

- consideration of the status of the licence must first be considered by the Regulatory Committee or Sub-Committee; and
- the holder of the licence must have been given the opportunity to appear before, and be heard by, the Committee or Sub-Committee determining the matter.

9.2 Where a decision is taken to revoke the licence written reasons will be provided to the holder within 7 days of the hearing determining the revocation.

9.3 Where a licence is revoked its holder is disqualified from holding or obtaining a licence in the area of the Council for a period of 12 months from the date of revocation.

10. Death of a Licence Holder

10.1 If a licence holder dies the licence will be deemed to be granted to his personal representative for a period of 3 months from the date of the death of the original holder, after which the licence expires.

10.2 Officers may determine to extend or further extend the 3 month period referred to in paragraph 10.1 above, if they are satisfied that a longer period is necessary to wind up the deceased person's estate and that no other circumstances make it undesirable.

11. Hearings

11.1 Following the end of the consultation period, applications for new licences, to which objections have been received, will be referred to the Regulatory Sub-Committee to be determined. Written notice of the hearing will be given to the Applicant and all persons who have made objections.

- 11.2 The Sub-Committee will normally consist of 3 members, however no business will be transacted unless at least 2 members are present and the licence holder consents to the matter proceeding on that basis.
- 11.3 A report will be put before the Regulatory Sub-Committee Members by a Licensing Officer. This report will contain, any objections made by any persons or the Police, any responses to the objections from the Applicant and any relevant supporting evidence from either side. Any documentation for inclusion must be sent to the Licensing Team as soon as possible or, as a minimum, 24 hours prior to the hearing. A copy of the report will be sent to the Applicant and any Objectors in advance of the meeting.
- 11.4 No documentary evidence may be submitted by any party on the day of the hearing without the consent of all other parties at the Committee.
- 11.5 Each party will be given the opportunity to present their arguments before the Regulatory Committee. A party to the application may also call witnesses but the hearing will be conducted as a discussion led by the Committee.
- 11.6 An Objector may not raise any planned objection not referred to in the written objection.
- 11.7 The hearing will proceed if any party fails to attend, and the Committee will give such weight as it considers appropriate to any written evidence previously submitted, given that it cannot be challenged in person by the other side.
- 11.8 The order of proceedings will generally be as follows:-
- (a) Introductions by Chairman;
 - (b) Outline of procedure by Council Solicitor;
 - (c) Applicant to state its case and call evidence;
 - (d) Committee members/officers/objectors to ask questions in response.
 - (e) Objectors to state their case and call evidence.
 - (f) Committee members/officers and Applicant to ask questions in response.
 - (g) Summing up by Objectors.
 - (h) Summing up by Applicant.
 - (i) The Committee will make its decision in private but will generally call all parties back in to announce its decision.
- 11.9 The written decision of the Committee and reasons for it will be forwarded in writing to all parties as soon as possible or within 7 working days at the latest.
- 12. Decisions**
- 12.1 The Committee may decide:
- to grant the application as applied for; or
 - to grant the application in part; or
 - to refuse the application; or
 - to revoke the licence,
 - and if granting or varying a licence, will attach the prescribed conditions contained in this policy and may vary those or attach any other conditions they consider appropriate.
- 12.2 Where the Sub-Committee decide to refuse the application they may do so on any of the following grounds:-
- (a) That the Applicant for a new, renewal or transferred application is not suitable to hold the licence by reason of having been convicted of an offence or for any other reason.
 - (b) That if a 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 granting, renewal or transfer of such a licence if he made the application himself.
 - (c) For new or renewal applications, that the number of sex establishments in the relevant locality at the time the application is made is equal to or exceeds the number which the Authority consider is appropriate for that locality.
 - (d) For new or renewal applications, that the grant of the licence would be inappropriate having regard to:
 - (i) the character of the relevant locality; or
 - (ii) the use to which any premises in the vicinity are put; or
 - (iii) the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.
- 12.3 The Licensing Authority will forward a copy of any licence granted, renewed or transferred to Northumbria Police and will similarly notify them of any refused application or revocation.
- 13. Appeals**
- 13.1 Except as specified below any of the following persons may appeal to the Local Magistrates within the period of 21 days of notification of the decision in relation to their application, that is:-
- An Applicant for the grant, renewal or transfer of a licence whose application has been refused.
 - An Applicant for the variation of the terms, conditions or restrictions on or subject to which any licence is held, whose application is refused.
 - A holder of any licence who is aggrieved by any term, condition or restriction on or subject to which the licence is held;
 - A holder of any licence whose licence is revoked.
- 13.2 An Applicant whose application for the grant or renewal

of a licence is refused or whose licence is revoked on any ground specified in paragraph 6.1 above does not have a right to appeal unless the Applicant seeks to show that the ground does not apply to him.

- 13.3 An Applicant whose application for the grant or renewal of a licence is refused or whose licence is revoked on either ground (c) or (d) specified in paragraph 6.2 above does not have a right to appeal the decision. In such cases the Applicant can only challenge the refusal by way of judicial review.

14. Enforcement

- 14.1 The Council recognises the importance of enforcement in creating a level playing field to encourage proper regulation of all licensing matters. The Council has adopted the Government's Enforcement Concordat, which is designed to ensure efficient and effective public protection and is based around the principals of consistency, transparency and proportionality.
- 14.2 Enforcement of both breaches of the general law and failure to comply with licence conditions will be acted upon in accordance with the severity of the offences occurring, having regard to both the length of time the breach has been occasioned and the ability and responsiveness of the offender in remedying the situation voluntarily, where this is possible.
- 14.3 Where possible and appropriate early warning will be given to operators of any concerns but prosecutions will be initiated if the severity of the situation demands the same.
- 14.4 The Council has approved the Northumbria Joint Enforcement Protocol and will seek to work in partnership with the Police, Trading Standards and any other relevant enforcement agency to carry out test purchasers, inspections of licensed premises, complaints received in relation to the same or investigations into unlicensed premises, with a view to ensure better regulation of sex establishments in South Tyneside.

Part D – Transitional Provisions for Sexual Entertainment Venues

1. Transitional Period

- 1.1 The "transitional period" covers the first 12 months from the date upon which the Council resolves to adopt the amendments to Schedule 3 incorporated in the Policing and Crime Act 2009. The first day of that 12 month period is known as the first appointed day.
- 1.2 Six months following the first appointed day is known as the second appointed day and the day upon which the transitional period ends 12 months from the first appointed day is known as the third appointed day.

2. Existing Operators

- 2.1 A person is an existing operator if prior to the first appointed day they have been providing entertainment

under the provisions of the 2003 Licensing Act in a premises which will qualify to be licensed as a sexual entertainment venue under the new regime. They can continue to provide such entertainment until either the third appointed day or the date upon which an application they submit before that time, under the new regime, is determined, whichever is later.

- 2.2 An existing operator is also any person who has been intending to operate their premises for the provision of entertainment which will qualify to require the premises to be licensed as a sexual entertainment venue, albeit they had not commenced that use before the amendments to Schedule 3 have been adopted. The status of such persons will be determined as a question of degree and fact upon application to the Licensing Authority.

- 2.3 In either of the above situations the Applicant must have been the holder of a Premises Licence or Club Premises Certificate under the Licensing Act 2003 which lawfully permitted the provision of a relevant entertainment immediately prior to the first appointed day.

3. New Applicants

- 3.1 New Applicants are persons who on or after the first appointed day wish to use premises as a sexual entertainment venue and have no history of preparing their premises for that purpose.

4. Determining Applications Received on or Before the Second Appointed Day

- 4.1 As the Authority is able to refuse applications having regard to the number of sex establishments considered appropriate for a particular locality, all applications made on or after the first appointed day but on or before the second appointed day have to be considered together. This ensures that Applicants are given sufficient time to submit their application and that all applications received on or before the second appointed day are considered on their individual merit and not on a first come first served basis.
- 4.2 Any new application which is granted will be effective immediately. Existing operators which are granted licences will be issued to take effect from the third appointed day and until then they will operate under their existing premises or club premises certificates.
- 4.3 Applications received after the second appointed day, whether from new or existing operators, will be determined (following the determination of all applications received on or before the second appointed day) when they are received. Again any new applications granted will be licensed with immediate affect but existing licences if granted will not be issued until the third appointed day.
- 4.4 If at all possible the Council directs that any outstanding applications under the 2003 Act will be determined prior to the first appointed day. If this has not been possible such applications will be treated as new applications from the first appointed day.

Appendix 1 - List of consultees

This document can be supplied upon application to the licensing authority.

Appendix 2

SCHEME OF DELEGATION OF DECISION MAKING AND FUNCTIONS SCHEDULE 3 LOCAL GOVERNMENT (MISCELLANEOUS REVISIONS) ACT 1982, AS AMENDED BY SECTION 27 OF THE POLICING AND CRIME ACT 2009

The Regulatory Committee is responsible for making licensing decisions with sub committees (comprising three members) and officers having delegated powers to make some decisions.

The table below describes how the licensing decisions for sex establishments are made.

Matter to be dealt with	Decision to be made by		
	Full Committee	Sub Committee	Officers
Application for grant renewal or transfer of Sex Establishment Licence		If a relevant objection	If no relevant objection
Application to vary licence		If officer minded to refuse	If officer minded to grant
Application to waive necessity for a licence		If officer minded to refuse	If officer minded to grant
Possible revocation of licence		If holder of licence requests to appear before it	All other cases
Cancellation of licence			All cases
Power to prescribe/amend standard conditions	All cases		
Setting of fees			All cases
All licensing functions in connection with Schedule 3 of the Local Government (Miscellaneous Provisions Act 1982) except those not capable of such delegation or otherwise delegated above			All cases

Appendix 3 - Application for a sex establishment licence to be granted/renewed/varied

This document is available from the Councils website following the link to Sex Establishments.

Appendix 4 - Application on press notice

This document is available from the Councils website following the link to Sex Establishments.

Appendix 5 - Details of Chief Police Officer

This document is available from the Councils website following the link to Sex Establishments.

Appendix 6 - Fees and charges

This document is available from the Councils website following the link to Sex Establishments.

Appendix 7

THE FOLLOWING REGULATIONS ARE STANDARD CONDITIONS APPLYING TO SEX ESTABLISHMENTS OF THE TYPE STIPULATED, WHICH WERE MADE BY SOUTH TYNESIDE COUNCIL UNDER PARAGRAPH 13(1) OF SCHEDULE 3 TO THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

STANDARD CONDITIONS APPLYING TO SEX SHOPS

<p>Definitions</p>	<p>1. In these Regulations except where the context otherwise requires the following expressions have the following meanings :-</p> <p>(i) "Sex Establishment" "Sex Cinema" "Sex Shop" "Sexual Entertainment Venue" "Sex Article" and (relevant entertainment) have the meanings ascribed to them in the Third Schedule of the Local Government (Miscellaneous Provisions) Act 1982.</p> <p>(ii) "Premises" means 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 Licence for a Sex Establishment granted under the Third Schedule of the Local Government (Miscellaneous Provisions) Act 1982 by the Council.</p> <p>(iii) "Approval of the Council" or "Consent of the Council" means the approval or consent of the Council in writing.</p> <p>(iv) "Approved" "Accepted" or "Permitted" means approved accepted or permitted by the Council in writing.</p> <p>(v) "South Tyneside Council" or "the Council" means the Council of the Borough of South Tyneside.</p>
<p>General</p>	<p>2. In the event of a conflict between these Regulations and any special conditions contained in a Licence relating to a Sex Establishment the special conditions will prevail.</p> <p>3. The grant of a Licence for a Sex establishment is not to be deemed to convey any approval or consent which is required under any enactment by law, order or regulation other than the Third Schedule of the Local Government (Miscellaneous Provisions) Act 1982.</p>
<p>Opening Times of the Premises</p>	<p>4. Except with the previous consent of the Council a Sex Shop must not open on Good Friday or Christmas Day.</p>
<p>Licensed Name</p>	<p>5. The Council at the time of granting the Licence will approve the name, identified in the application form, or such other name as it considers appropriate, which will be the "Licensed Name" by which it is intended the premises will be known. The Licence Holder must ensure that the premises are known solely by that name and by no other, save as provided for in paragraph 6 below.</p> <p>6. An application in respect of a change of Licensed Name must be made to the Council by way of variation in writing not less than 28 days prior to the proposed change and the Council will have an absolute discretion to allow or refuse the change of name proposed.</p>

<p>Management and Conduct of the Premises</p>	<p>7. The Licence, or a clear copy and any special conditions attached to it, must be displayed at all times in a conspicuous position on the premises so as to be readily and easily seen by all persons using the premises.</p> <p>8. The Licensee, or some responsible person nominated in writing by the Licensee and of whom details (including name, address, age, sex, criminal convictions and photograph) have been supplied and approved by the Council, is the person in charge of the premises and has personal responsibility for the premises and is responsible at all times the premises are open to the public. Any approved nomination must be continuously available for inspection at the premises by a Police Officer or an Officer authorised in writing by the Council.</p> <p>9. The person in charge must be conversant with these conditions and must not be engaged on any duties which will prevent them from exercising general supervision and they must be assisted as necessary by suitable adult persons to ensure adequate supervision.</p> <p>10. A notice showing the name of the person in charge of the premises at the time they are open under the Licence must be conspicuously exhibited in a position where it can easily be seen by customers.</p> <p>11. The Licensee must ensure that a daily register is maintained recording the name and address of any person who is responsible for managing the Sex Establishment in the Licensee's absence and the names and addresses of every person employed in the Sex Establishment. This register must be completed every day within 30 minutes of the premises opening for business and must be available for inspection by the Police and authorised officers of the Council.</p> <p>12. No person under the age of 18 may be admitted to the premises or be employed in the business of the Sex Establishment.</p> <p>13. All members of staff must be easily identifiable as such. If required by the Council in writing the Licensee must ensure that during the hours the premises are open for business every employee working in the licensed premises wears a badge of a type approved by the Council indicating their name and status within the premises.</p> <p>14. The Licensee, any employee or any other person concerned in the conduct or management of the premises must not solicit custom for the Sex Establishment outside or in the vicinity of the premises nor allow the premises to be used by prostitutes. (In this context soliciting includes the distribution of leaflets).</p> <p>15. 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 must be notified in writing to the Council within fourteen days of such change. Any further information regarding such person as is requested by the Council in writing must also be provided within 14 days of the Council's written request.</p> <p>16. The Licensee must retain control over all parts of the premises and must not let, licence or part with possession of any part. The Council must be notified immediately in the event that any part of the premises is affected by the termination of a lease or other event affecting the Licensee's control of the premises.</p> <p>17. The Licensee must ensure that the public is not admitted to any part of the premises that has not been licensed.</p> <p>18. The Licensee must maintain good order on the premises and in particular must ensure that none of the following take place:-</p> <p>(a) Indecent behaviour, including sexual intercourse</p> <p>(b) The offer of any sexual or other indecent service for reward</p> <p>(c) Acts of violence against person or property and/or the attempt or threat of such acts</p>
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<p>External Appearance of the Premises</p>	<p>19. The external appearance of the premises must be of a colour and a design approved by the Council.</p> <p>20. The Licensee may, on the outside of the premises, exhibit the Licensed Name of the business and a notice consisting of the words "licensed adult establishment".</p> <p>21. The Licensee must exhibit a notice of the opening times on the outside of the building and of the words "WARNING – Persons passing beyond this point may find material on display which they consider to be indecent". "No person under the age of 18 allowed. People appearing under the age of 21 will be required to show proof of their age".</p> <p>22. In the case of a Licence granted to a body corporate, if the Licensed Name is not the same as the full name of the body corporate then a notice must be displayed outside the premises confirming the corporate name and, if relevant, identifying the premises as the registered office of the body.</p> <p>23. No poster, photographs, sketch, painting or any form of advertisement or display may be displayed by or on behalf of the Licensee on, outside or within the premises, in a position where it is visible to the public, except as otherwise identified in these conditions or approved by the Council in writing.</p> <p>24. No sex article or any other thing 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 and no display, advertisement, word, letter, model, sign, light, placard, board, notice, device, representation, drawing, writing, or any matter or thing (whether illuminated or not) may be exhibited so as to be visible from outside the premises except:-</p> <p>a) 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.</p> <p>b) Such display, advertisement, word, letter, model, sign, light, placard, board, notice, device, representation, drawing, writing or any matter or thing as has been approved by the Council.</p> <p>25. The entrances to the premises must be of a material or covered with material which renders the interior of the premises invisible to passersby.</p> <p>26. Windows and openings to the premises, other than entrances, must either be of a material or covered with a material that renders the interior of the premises invisible to passersby or must have suspended behind them, in a position approved by the Council, opaque curtains, screens or blinds of a type and size approved by the Council.</p> <p>27. The premises must be maintained in good repair and condition.</p>
<p>State, condition and layout of the Premises</p>	<p>28. Lighting in all parts of the premises, as approved by the Council, must be in operation continuously during the whole of the time that the sex establishment is open to the public.</p> <p>29. The number, size and position of all doors or openings provided for the purposes of the ingress and egress of the public must be approved by the Council and must comply with the following requirements:-</p> <p>a) All such doors or openings approved by the Council must be clearly indicated on the inside by the word "Exit".</p> <p>b) Doors and openings which lead to parts of the premises to which the public are not permitted to have access must have notices placed over them marked "Private".</p> <p>c) Except in the case of emergency no access must be permitted through the premises to any unlicensed premises adjoining or adjacent.</p> <p>d) External doors must be kept closed at all times other than when people are entering or leaving the premises. The external doors to the sex establishment must be fitted with a device to provide for their automatic closure and such devices must be maintained in good working order.</p> <p>e) The Licensee must make provision in the means of access both to and within the sex establishment for the needs of members of the public visiting the premises who are disabled.</p> <p>30. No fastenings of any description may be fitted upon any booth or cubicle within the sex establishment and no more than one person (including any employee) may be present in any booth or cubicle at any time.</p> <p>31. All parts of the premises must be kept in a clean and wholesome condition to the satisfaction of the Council.</p>

Alterations	<p>32. No alterations or additions either internal or external and whether permanent or temporary to the structure, lighting or layout of the premises may be made without prior written consent from the Council.</p> <p>33. Where works necessitate the premises being closed for a period of time, the premises must not re-open for the purpose of the Licence until the Licensee has been notified in writing by the Council of the satisfactory completion of the work.</p>
Change of Use	<p>34. No change of use of all or any portion of the premises from that approved by the Council can be made until all necessary consents have been obtained from the Council. For the avoidance of doubt this means that the premises may not be changed from one type of sex establishment (e.g. a sex shop) into any other class of sex establishment (e.g. a sex cinema or a sex entertainment venue).</p>
Safety and Security	<p>35. The Licensee must take all reasonable precautions for the safety of the public and employees in the sex establishment.</p> <p>36. The Licensee must ensure that necessary steps are taken to check the age of customers entering the premises who appear to be under the age of 21 to ensure they are not younger than 18 and where a person is refused entry because of age a record must be kept of such refusal in an appropriate register. The register must be available for inspection by a Police Officer or an authorised Officer of the Council.</p>
Advertising and Free Literature	<p>37. All advertising and/or promotional literature must not depict explicit material that shows nudity or describes or represents sexual activity in a direct and detailed way.</p> <p>38. The Licensee must, without charge, display and make available in the premises such free literature on counselling on matters related to sexual problems as may be published by the Family Planning Association and other similar Organisations including literature relating to the prevention of sexually transmitted diseases and HIV. All such literature is to be displayed in a prominent position adjacent to all cash collection points in the sex establishment and at any other additional locations approved by the Council.</p>
Sales of Goods	<p>39. A sex shop must be conducted primarily for the purpose of the sale of goods by retail.</p> <p>40. All sex articles and other things displayed for sale, hire, exchange or loan within a sex shop must be clearly marked to show the persons who are inside the sex shop, the respective prices being charged.</p> <p>41. All printed matter offered for sale, hire, exchange or loan must be available for inspection prior to purchase and a notice to this effect must be prominently displayed within the premises.</p> <p>42. No film or video recording may be exhibited, sold or supplied unless it has been passed by the British Board of Film Classification and bears a certificate to that effect and is a reproduction authorised by the owner of the copyright of the film or video so certified.</p> <p>43. Any facilities for previewing films, video recordings or similar material must be physically separated from the display area of the shop so that no material being displayed is visible or audible outside the preview area.</p>

STANDARD CONDITIONS APPLYING TO SEX CINEMAS

Definitions	<p>In these Regulations except where the context otherwise requires the following expressions have the following meanings :-</p> <p>(i) "Sex Establishment" "Sex Cinema" "Sex Shop" "Sexual Entertainment Venue" "Sex Article" and (relevant entertainment) have the meanings ascribed to them in the Third Schedule of the Local Government (Miscellaneous Provisions) Act 1982.</p> <p>(ii) "Premises" means 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 Licence for a Sex Establishment granted under the Third Schedule of the Local Government (Miscellaneous Provisions) Act 1982 by the Council.</p> <p>(iii) "Approval of the Council" or "Consent of the Council" means the approval or consent of the Council in writing.</p> <p>(iv) "Approved" "Accepted" or "Permitted" means approved accepted or permitted by the Council in writing.</p> <p>(v) "South Tyneside Council" or "the Council" means the Council of the Borough of South Tyneside.</p>
General	<p>2. In the event of a conflict between these Regulations and any special conditions contained in a Licence relating to a Sex Establishment the special conditions will prevail.</p> <p>3. The grant of a Licence for a Sex establishment is not to be deemed to convey any approval or consent which is required under any enactment by law, order or regulation other than the Third Schedule of the Local Government (Miscellaneous Provisions) Act 1982.</p>
Opening Times of the Premises	<p>4. Except with the previous consent of the Council a Sex Cinema must not open on Good Friday or Christmas Day.</p>
Licensed Name	<p>5. The Council, at the time of granting the Licence, will approve the name, identified in the application form, or such other name as it considers appropriate, which will be the "Licensed Name" by which it is intended the premises will be known. The Licence Holder must ensure that the premises are known solely by that name and by no other, save as provided for in paragraph 6 below.</p> <p>6. An application in respect of a change of Licensed Name must be made to the Council by way of variation in writing not less than 28 days prior to the proposed change and the Council will have an absolute discretion to allow or refuse the change of name proposed.</p>

Management and Conduct of the Premises	<p>The Licence, or a clear copy and any special conditions attached to it, must be displayed at all times in a conspicuous position on the premises so as to be readily and easily seen by all persons using the premises.</p> <ol style="list-style-type: none"> 8. The Licensee, or some responsible person nominated in writing by the Licensee and of whom details (including name, address, age, sex, criminal convictions and photograph) have been supplied, and approved by the Council, is the person in charge of the premises and has personal responsibility for the premises and is responsible at all times the premises are open to the public. Any approved nomination must be continuously available for inspection at the premises by a Police Officer or an Officer authorised in writing by the Council. 9. The person in charge must be conversant with these conditions and must not be engaged on any duties which will prevent them from exercising general supervision and they must be assisted as necessary by suitable adult persons to ensure adequate supervision. 10. A notice showing the name of the person in charge of the premises at the time they are open under the Licence must be conspicuously exhibited in a position where it can easily be seen by customers. 11. The Licensee must ensure that a daily register is maintained recording the name and address of any person who is responsible for managing the Sex Establishment in the Licensee's absence and the names and addresses of every person employed in the Sex Establishment. This register must be completed every day within 30 minutes of the premises opening for business and must be available for inspection by the Police and authorised officers of the Council. 12. No person under the age of 18 may be admitted to the premises or be employed in the business of the Sex Establishment. 13. All members of staff must be easily identifiable as such. If required by the Council in writing the Licensee must ensure that during the hours the premises are open for business every employee working in the licensed premises wears a badge of a type approved by the Council indicating their name and status within the premises. 14. The Licensee, any employee or any other person concerned in the conduct or management of the premises must not solicit custom for the Sex Establishment outside or in the vicinity of the premises nor allow the premises to be used by prostitutes. (In this context soliciting includes the distribution of leaflets). 15. 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 must be notified in writing to the Council within fourteen days of such change. Any further information regarding such person as is requested by the Council in writing must also be provided within 14 days of the Council's written request. 16. The Licensee must retain control over all parts of the premises and must not let, licence or part with possession of any part. The Council must be notified immediately in the event that any part of the premises is affected by the termination of a lease or other event affecting the Licensee's control of the premises. 17. The Licensee must ensure that the public is not admitted to any part of the premises that has not been licensed. 18. The Licensee must maintain good order on the premises and in particular must ensure that none of the following take place:- <ol style="list-style-type: none"> (a) Indecent behaviour, including sexual intercourse (b) The offer of any sexual or other indecent service for reward (c) Acts of violence against person or property and/or the attempt or threat of such acts
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External Appearance of the Premises	<p>19. The external appearance of the premises must be of a colour and a design approved by the Council.</p> <p>20. The Licensee may, on the outside of the premises, exhibit the Licensed Name of the business and a notice consisting of the words "licensed adult establishment".</p> <p>21. The Licensee must exhibit a notice of the opening times on the outside of the building and of the words "WARNING – Persons passing beyond this point may find material on display which they consider to be indecent". "No person under the age of 18 allowed. People appearing under the age of 21 will be required to show proof of their age".</p> <p>22. In the case of a Licence granted to a body corporate, if the Licensed Name is not the same as the full name of the body corporate then a notice must be displayed outside the premises confirming the corporate name and, if relevant, identifying the premises as the registered office of the body.</p> <p>23. No poster, photographs, sketch, painting or any form of advertisement or display may be displayed by or on behalf of the Licensee on, outside or within the premises in a position where it is visible to the public except as otherwise identified in these conditions or approved by the Council in writing.</p> <p>24. No sex article or any other thing 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 and no display, advertisement, word, letter, model, sign, light, placard, board, notice, device, representation, drawing, writing, or any matter or thing (whether illuminated or not) may be exhibited so as to be visible from outside the premises except:-</p> <p>a) 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.</p> <p>b) Such display, advertisement, word, letter, model, sign, light, placard, board, notice, device, representation, drawing, writing or any matter or thing as has been approved by the Council.</p> <p>25. The entrances to the premises must be of a material or covered with material which renders the interior of the premises invisible to passersby.</p> <p>26. Windows and openings to the premises, other than entrances, must either be of a material or covered with a material that renders the interior of the premises invisible to passersby or must have suspended behind them in a position approved by the Council opaque curtains, screens or blinds of a type and size approved by the Council.</p> <p>27. The premises must be maintained in good repair and condition.</p>
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<p>State, condition and layout of the Premises</p>	<p>28. Lighting in all parts of the premises, as approved by the Council, must be in operation continuously during the whole of the time that the sex establishment is open to the public.</p> <p>29. The level of normal lighting in any auditorium must be as great as possible consistent with the effect of presentation or exhibition of the film taking place and to the satisfaction of the Council.</p> <p>30. The number, size and position of all doors or openings provided for the purposes of the ingress and egress of the public must be approved by the Council and must comply with the following requirements:-</p> <p>(a) All such doors or openings approved by the Council must be clearly indicated on the inside by the word "Exit".</p> <p>(b) Doors and openings which lead to parts of the premises to which the public are not permitted to have access must have notices placed over them marked "Private".</p> <p>(c) Except in the case of emergency no access must be permitted through the premises to any unlicensed premises adjoining or adjacent.</p> <p>(d) External doors must be kept closed at all times other than when people are entering or leaving the premises. The external doors to the sex establishment must be fitted with a device to provide for their automatic closure and such devices must be maintained in good working order.</p> <p>(e) The Licensee must make provision in the means of access both to and within the sex establishment for the needs of members of the public visiting the premises who are disabled.</p> <p>31. All parts of the premises must be kept in a clean and wholesome condition to the satisfaction of the Council.</p> <p>32. No alterations or additions either internal or external and whether permanent or temporary to the structure, lighting or layout of the premises may be made without prior written consent from the Council.</p>
<p>Alterations</p>	<p>33. Where works necessitate the premises being closed for a period of time, the premises must not re-open for the purpose of the Licence until the Licensee has been notified in writing by the Council of the satisfactory completion of the work.</p>
<p>Change of Use</p>	<p>34. No change of use of all or any portion of the premises from that approved by the Council can be made until all necessary consents have been obtained from the Council. For the avoidance of doubt this means that the premises may not be changed from one type of sex establishment (e.g. a sex cinema) into any other class of sex establishment (e.g. a sex shop or a sex entertainment venue).</p>
<p>Safety and Security</p>	<p>35. The Licensee must take all reasonable precautions for the safety of the public and employees in the sex establishment.</p> <p>36. The Licensee must ensure that necessary steps are taken to check the age of customers entering the premises who appear to be under the age of 21 to ensure they are not younger than 18 and where a person is refused entry because of age a record must be kept of such refusal in an appropriate register. The register must be available for inspection by a Police Officer or an authorised Officer of the Council.</p>
<p>Advertising and Free Literature</p>	<p>37. All advertising and/or promotional literature must not depict explicit material that shows nudity or describes or represents sexual activity in a direct and detailed way.</p> <p>38. The Licensee must, without charge, display and make available in the premises such free literature on counselling on matters related to sexual problems as may be published by the Family Planning Association and other similar Organisations including literature relating to the prevention of sexually transmitted diseases and HIV. All such literature is to be displayed in a prominent position adjacent to all cash collection points in the sex establishment and at any other additional location/s approved by the Council.</p>
<p>Exhibition of Films</p>	<p>39. The premises must be conducted primarily for the purpose of the exhibition of moving pictures, neither sex articles nor other things intended for use in connection with, or for the purposes of stimulating or encouraging sexual activity or acts of force or restraint which are associated with a sexual activity may be sold, hired, exchanged or loaned in a sex cinema.</p> <p>40. No film or video film may be exhibited unless it has been passed by the British Board of Film Classification and bears a certificate to that effect and is a reproduction authorised by the owner of the copy right of the film or video film so certified. Any such film or video film shall comply with the Video Recordings Act 1984.</p>

STANDARD CONDITIONS APPLYING TO SEX ENTERTAINMENT VENUES

<p>Definitions</p>	<p>In these Regulations except where the context otherwise requires the following expressions have the following meanings :-</p> <p>(i) "Sex Establishment" "Sex Cinema" "Sex Shop" "Sexual Entertainment Venue" and "Sex Article" have the meanings ascribed to them in the Third Schedule of the Local Government (Miscellaneous Provisions) Act 1982.</p> <p>(ii) "Premises" means 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 Licence for a Sex Establishment granted under the Third Schedule of the Local Government (Miscellaneous Provisions) Act 1982 by the Council.</p> <p>(iii) "Approval of the Council" or "Consent of the Council" means the approval or consent of the Council in writing.</p> <p>(iv) "Approved" "Accepted" or "Permitted" means approved accepted or permitted by the Council in writing.</p> <p>(v) "South Tyneside Council" or "the Council" means the Council of the Borough of South Tyneside.</p>
<p>General</p>	<p>2. In the event of a conflict between these Regulations and any special conditions contained in a Licence relating to a Sex Establishment the special conditions will prevail.</p> <p>3. The grant of a Licence for a Sex Establishment is not deemed to convey any approval or consent which is required under any enactment by law, order or regulation other than the Third Schedule of the Local Government (Miscellaneous Provisions) Act 1982.</p>
<p>Opening Times of the Premises</p>	<p>4. Except with the previous consent of the Council a Sex Entertainment Venue must not open on Good Friday or Christmas Day.</p>
<p>Licensed Name</p>	<p>5. The Council, at the time of granting the Licence, will approve the name, identified in the application form, or such other name as it considers appropriate which, will be the "Licensed Name" by which it is intended the premises will be known. The Licence Holder must ensure that the premises are known solely by that name and by no other, save as provided for in paragraph 6 below.</p> <p>6. An application in respect of a change of Licensed Name must be made to the Council by way of variation in writing not less than 28 days prior to the proposed change and the Council will have an absolute discretion to allow or refuse the change of name proposed.</p>

Management and Conduct of the Premises	<p>7. The Licence or a clear copy and any special conditions attached to it must be displayed at all times in a conspicuous position on the premises so as to be readily and easily seen by all persons using the premises.</p> <p>8. The Licensee, or some responsible person nominated in writing by the Licensee and of whom details (including name, address, age, sex, criminal convictions and photograph) have been supplied, and approved by the Council, is the person in charge of the premises and has personal responsibility for the premises and is responsible at all times the premises are open to the public. Any approved nomination must be continuously available for inspection at the premises by a Police Officer or an Officer authorised in writing by the Council.</p> <p>9. The person in charge must be conversant with these conditions and must not be engaged on any duties which will prevent them from exercising general supervision and they must be assisted as necessary by suitable adult persons to ensure adequate supervision.</p> <p>10. A notice showing the name of a person in charge of the premises at the time they are open under the Licence must be conspicuously exhibited in a position where it can easily be seen by customers.</p> <p>11. The Licensee must ensure that a daily register is maintained recording the name and address of any person who is responsible for managing the Sex Establishment in the Licensee's absence and the names and addresses of every person employed in the Sex Establishment. This register must be completed every day within 30 minutes of the premises opening for business and must be available for inspection by the Police and authorised officers of the Council.</p> <p>12. No person under the age of 18 may be admitted to the premises or be employed in the business of the Sex Establishment.</p> <p>13. All members of staff must be easily identifiable as such. If required by the Council in writing the Licensee must ensure that during the hours the premises are open for business every employee working in the licensed premises wears a badge of a type approved by the Council indicating their name and status within the premises.</p> <p>14. 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 must be notified in writing to the Council within fourteen days of such change. Any further information regarding such person as is requested by the Council in writing must also be provided within 14 days of the Council's written request.</p> <p>15. The Licensee must retain control over all parts of the premises and must not let, licence or part with possession of any part. The Council must be notified immediately in the event that any part of the premises is affected by the termination of a lease or other event affecting the Licensee's control of the premises.</p> <p>16. The Licensee must ensure that the public is not admitted to any part of the premises that has not been licensed.</p> <p>17. The Licensee must maintain good order on the premises and in particular must ensure that none of the following take place:-</p> <ul style="list-style-type: none"> (a) Indecent behaviour, including sexual intercourse (b) The offer of any sexual or other indecent service for award (c) Acts of violence against person or property and/or the attempt or threat of such acts. <p>18. The Licensee must ensure that a suitable number of trained staff are employed to supervise the interior of the premises whilst relevant entertainment is taking place under this Licence.</p> <p>19. Any individual employed on the premises to conduct a security activity (within the meaning of paragraph 2(1)(a) of Schedule 2 to the Private Security Industry Act 2001) must be licensed by the Security Industry Authority.</p> <p>20. Any person who appears to be under the influence of alcohol or drugs must not be admitted to the premises.</p>
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Management and Conduct of the Premises cont	<p>21. The Licensee must discourage criminal conduct and in particular the use of illegal substances by displaying notices in and at the entrances to the licensed premises that clearly state:</p> <p>“Entry will be refused to any person who is drunk, threatening or violent,</p> <p>“Entry may be refused to any person who has been convicted of an offence of drunkenness, violent or threatening behaviour or the use of or distribution of illegal substances at a licensed venue”.</p> <p>“Evidence may be recorded on imaging equipment or CCTV and offences will be reported to the Police”.</p> <p>22. The seizure of drugs or any articles taken as a consequence of a criminal offence or other incident must be retained in a suitable receptacle and reported to the Police immediately.</p> <p>23. Neither the Licensee nor any Employee or other person may seek to obtain custom for the Sex Entertainment Venue by means of personal solicitation outside or in the vicinity of the premises. (in this context soliciting includes the distribution of leaflets)</p> <p>24. A copy of the Sex Establishment Licence must be exhibited in the public area</p> <p>25. The Licensee must ensure that copies of the conditions specifically relating to “performances” and “customer behaviour” detailed below are readily available to be viewed by patrons attending the premises.</p>
External Appearance and Advertising	<p>26. The exterior of the premises must be maintained to a satisfactory level of decorum approved by the Council.</p> <p>27. The Licensee must ensure to the Council’s satisfaction (including where required, necessary planning or building control consents) that any entertainment area of the premises is not visible from the outside of the premises and that at no point are any performers of the relevant entertainment visible from outside the premises.</p> <p>28. The Licensee must ensure that neither they or any person promoting or providing relevant entertainment on the premises (nor any person acting on behalf of any such person) displays advertisements promoting the entertainment of the premises in any unlawful manner or in any manner which does not comply with these conditions.</p> <p>29. Where the Council have given notice in writing to the Licensee objecting to an advertisement on the grounds that, if displayed, it would offend 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 must not be displayed.</p> <p>30. The Licensee must not permit the display outside the premises of photographs or other images which indicate or suggest that striptease or any other relevant entertainment takes place on the premises.</p>
State, Condition and Layout of the Premises	<p>31. The premises must be maintained in good repair and condition</p> <p>32. Lighting in all parts of the premises, as approved by the Council, must be in operation continuously during the whole of the time that the sex establishment is open to the public.</p> <p>33. The number, size and position of all doors or openings provided for the purposes of the ingress and egress of the public must be approved by the Council and must comply with the following requirements:-</p> <p>a) All such doors or openings approved by the Council must be clearly indicated on the inside by the word “Exit”.</p> <p>b) Doors and openings which lead to parts of the premises to which the public are not permitted to have access must have notices placed over them marked “Private”.</p> <p>c) Except in the case of emergency no access must be permitted through the premises to any unlicensed premises adjoining or adjacent.</p> <p>d) External doors must be kept closed at all times other than when people are entering or leaving the premises. The external doors to the sex establishment must be fitted with a device to provide for their automatic closure and such devices must be maintained in good working order.</p> <p>e) The Licensee must make provision in the means of access both to and within the sex establishment for the needs of members of the public visiting the premises who are disabled.</p>
Alterations	<p>34. No alterations or additions either internal or external and whether permanent or temporary to the structure, lighting or layout of the premises may be made without prior written consent from the Council.</p> <p>35. Where works necessitate the premises being closed for a period of time, the premises must not re-open for the purpose of the Licence until the Licensee has been notified in writing by the Council of the satisfactory completion of the work.</p>

Change of Use	36. No change of use of all or any portion of the premises from that approved by the Council can be made until all necessary consents have been obtained from the Council. For the avoidance of doubt this means that the premises may not be changed from one type of sex establishment (eg a sex entertainment venue) into any other class of sex establishment (e.g. a sex cinema or a sex shop).
Performances	<p>37. There must be no physical contact between customers and entertainers during a performance except for the placing of gratuities into the hand of a performer at the beginning or end of a performance.</p> <p>38. Where relevant a price list must be displayed in a prominent position giving the price and time allowed for a dance routine which may be requested by a customer.</p> <p>39. Performances must only take place in the allocated areas as identified on the Licence or as may be agreed in writing with the Council.</p> <p>40. The Licensee must ensure a sufficient number of SIA registered security staff are employed at the premise whilst relevant entertainment is provided to supervise the performers and customers.</p> <p>41. The Licensee must ensure that performance of a nude table dance does not take place except in a supervised area or within 5 metres of a supervising member of staff.</p> <p>42. No performance shall involve the use of sex articles (as defined in the Local Government (Miscellaneous Provisions) Act 1982).</p> <p>43. Only the performers may provide the entertainment. No audience participation is permitted.</p> <p>44. The Licensee must ensure that during the performance of a table dance:-</p> <p>(a) Customers are 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.</p> <p>(b) Customers remain seated during the entire performance of the dance.</p> <p>(c) For the purpose of restraint only performers may only touch a customer above the customer's chest with their hands only.</p> <p>(d) Performers must not sit or straddle the customer.</p> <p>(e) Performers must not place their feet on the seats.</p> <p>45. The Licensee must ensure that during all performances to which this Licence relates:-</p> <p>(a) Performers do not perform any act that clearly stimulates any sexual act.</p> <p>(b) Performers do not:</p> <ul style="list-style-type: none"> • intentionally touch a customer at any time during the performance • approach closer than 30 cm (12 inches) from any patron • part their legs • climb onto furniture provided for patrons. <p>(c) Performers do not use inappropriate suggestive or sexually graphic language at any time.</p> <p>(d) Performers do not intentionally touch the genitals or breasts of another dancer or knowingly permit another dancer to intentionally touch their genitals or breasts.</p> <p>(e) Performers do 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.</p> <p>(f) Performers only perform nude or semi nude dancing (of any description) within areas specified by the Council.</p>

Performer Rules	<p>46. The Licensee must ensure that the following rules are imposed on performers and embodied in their Contracts of Employment:-</p> <ul style="list-style-type: none"> i) To be respectably attired when not performing. ii) To arrive at and leave the premises quietly. iii) To provide photographic identification by way of a valid Passport, Driving Licence or equivalent document to confirm they are over the age of 18 years and their identity. iv) Do not give out personal telephone numbers or any contact information to any customer, accept any phone number or contact information from any customer or otherwise make any arrangement whatsoever to meet a customer off the licensed premises. v) Do not sell any form of sexual favour and do not accept any customer's offer of payment in return for sexual favours whether or not there is an intention to carry them out. vi) Be alone in the company of any customer except in an area open to the public within the premises.
Customer Behaviour	<p>47. The Licensee must ensure that during a performance to which this Licence relates:-</p> <ul style="list-style-type: none"> i) Customers do not dance at any time except in areas specifically designated by the Council as being separate from areas for the relevant entertainment. ii) Customers remain appropriately clothed at all times. iii) Customers are not permitted to photograph, video or in any way record performers or any part of the performance. <p>48. Management must reserve the right to exclude any customer who does not comply with the above rules of behaviour.</p>
Safety and Security	<p>49. The Licensee must take all reasonable precautions for the safety of the public and employees in the sex establishment and must implement a policy to ensure the safety of any performers when they leave the premises after a period of work.</p> <p>50. The Licensee must ensure that necessary steps are taken to check the age of customers entering the premises who appear to be under the age of 21 to ensure they are not younger than 18 and where a person is refused entry because of age a record must be kept of such refusal in an appropriate register. The register must be available for inspection by a Police Officer or an authorised Officer of the Council.</p> <p>51. The Licensee must ensure that a closed circuit television system is installed at the premises both internally and externally to the satisfaction of the Council and that:-</p> <ul style="list-style-type: none"> i) It is operated at all times that the premises are open to the public ii) All recordings are kept for a minimum of 31 days iii) Recordings taken within the past 24 hours are viewable on the premises by a Police Officer or an Authorised Officer of the Council within two hours of such a request being made iv) All other recordings must be able to be viewed within 48 hours of such a request.

Appendix 8

DEFINITIONS OF TERMS FROM SCHEDULE 3 OF THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

The following terms, from the above legislation, are used with the same meaning in this Policy:-

“Sex Establishment”	means a sex cinema, sex shop or sexual entertainment venue
“Sexual Entertainment Venue”	means any premises at which, “relevant entertainment” is provided before a live audience for the financial gain of the organiser or entertainer.
“Relevant Entertainment”	means any live performance, or any display of nudity, which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience, (whether by verbal or other means).
“Audience”	includes an audience of one.
“Display of nudity”	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.
“Organiser”	in relation to the provision of relevant entertainment at premises means any person who is responsible for the organisation or management of the relevant entertainment, or the premises.
“Premises”	includes any vessel, vehicle or stall but does not include any private dwelling to which the public is not admitted.
“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 are concerned primarily with the portrayal of, or primarily deal with or relate to, or are intended to stimulate or encourage sexual activity, or acts of force or restraint which are associated with sexual activity, or are concerned primarily with the portrayal of, or primarily deal with or relate to, genital organs or urinary or excretory functions, but does not include a dwelling house to which the public is not admitted.
“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 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.
“Sex Article”	means anything made for use in connection with, or for the purpose of stimulating or encouraging sexual activity, or acts of force or restraint which are associated with sexual activity and to any article 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 such article and to any recording of vision or sound, 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 is concerned primarily with the portrayal of, or primarily deals with or relates to genital organs, or urinary or excretory functions.
“Appropriate Authority”	means in relation to any area for which a resolution has been passed under section 2 of Schedule 3 of the 1982 Act, the local authority who passed it.
“Chief Officer of Police”	in relation to any locality, means the Chief Officer of Police for the police area in which the locality is situated.
“Vessel”	includes any ship, boat, raft, hovercraft or other apparatus constructed or adapted for floating on water.
“Standard Conditions”	means the terms conditions and restrictions on or subject to which sex establishment licences are granted renewed or transferred by the appropriate authority, as prescribed by regulation by them (see Appendix 7)

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If you know someone who would like this information in a different format
contact the communications team on 0191 424 7385