



Sex Establishment Licensing Policy

Effective from: 1st January 2018

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1 INTRODUCTION

1.1 This document states North Hertfordshire District Council's policy on the regulation of Sex Establishments.

1.2 The Law

1.2.1 The Local Government (Miscellaneous Provisions) Act 1982 introduced a licensing regime to control Sex Establishments. North Hertfordshire District Council adopted Schedule 3 of the Act on 11th January 1983 (effective from 1st March 1983 onwards). This means that the Council can control and regulate the operation of certain kinds of Sex Establishment within its District. No Sex Establishment can operate unless it has obtained a licence from the Council – any such licence will contain conditions that will restrict how that Premises may trade.

1.2.2 Under Section 17 of the Crime and Disorder Act 1998, local authorities must have regard to the likely effect of the exercise of their functions on, and do all that they can to prevent, crime and disorder in their area. This Policy has regard to the likely impact of such licences on related crime and disorder in the District.

1.2.3 Where applicable, the Council will involve the **Community Safety Partnership (CSP)** in decision-making in relation to actual crime and disorder.

1.2.4 This Policy should be read in conjunction with, and without prejudice to, other existing National and European Union legislation, such as the Human Rights Act 1998, **the Provision of Services Regulations 2009** and the **Equality Act 2010**.

1.3 Exchange of Information

1.3.1 **The Council may from time to time exercise its powers under section 115 of the Crime and Disorder Act 1998 to exchange data and information with the police and other partners to fulfil its statutory objective of reducing crime in North Hertfordshire. Data may also be released in accordance with statutory provisions under the Data Protection Act 1998, the Freedom of Information Act 2000, and any other subsequent associated legislation.**

2. LICENCE APPLICATIONS

2.1 Right to Waiver

2.1.1 The Council may, upon application, waive the requirement for a Sex Establishment licence in any case where it considers that to require a licence would be unreasonable or inappropriate.

2.1.2 Each application for a waiver will be considered on its own merits, however, **the Council does not consider that it would ordinarily be appropriate to grant a waiver in respect of a business that solely or primarily provides licensable sex-related activities on a commercial basis, i.e. with a view to making a profit.**

- 2.1.3 The Council considers that the most appropriate use of a waiver would be as an option for businesses that provide licensable sex-related activities as a minor, ancillary part of their overall trading which would not ordinarily be the reason for customers to visit the Premises.

2.2 Application Details

- 2.2.1 The applicant will be required to make their application in accordance with the prescribed requirements detailed in Clause 10 of Schedule 3 of the Act.

2.3 Fitness of the Applicant

- 2.3.1 An applicant must be a fit and proper person to hold a licence. In determining suitability for a new licence, or a transfer of an existing one, the factors to be considered by the Council will include, but are not limited to:

- a) previous and current relevant knowledge and experience of the applicant;
- b) any evidence of the operation of any existing or previous licence(s) held by the applicant, including any licence held in any other District or Borough;
- c) any report about the applicant and management of the Premises received from statutory objectors;
- d) any concerns raised by statutory bodies in relation to safeguarding of children or vulnerable adults.

- 2.3.2 Whilst every application will be considered on its merits the Council will be unlikely to grant an application from any person, or for the benefit of any person, with unspent relevant criminal convictions.

2.4 Impact of the Sex Establishment

- 2.4.1 In considering applications for the grant of new licences or variation of conditions, the Council will assess the likelihood of such a grant causing adverse impacts, particularly to local residents. The Council will take the following general matters into account:

- a) type of activity;
- b) duration of proposed licence;
- c) proposed hours of operation;
- d) layout and condition of the Premises;
- e) the use to which premises in the vicinity are put;
- f) the character of the locality in which the Premises are situated, including but not limited to:
 - (i) the density and proximity of residential accommodation; and
 - (ii) the presence of important thoroughfares or use of the locality as a gateway area;
 - (iii) the intended use of the area as an area of regeneration.

- 2.4.2 In considering all applications for the grant of new licences or applications for variation of conditions the Council will take into account the potential impacts of the application on:

- a) crime and disorder [see 2.5 for more information];

- b) cumulative impact of licensed premises in the area, including hours of operation [see 2.6 for more information];
- c) the character of the locality in which the Premises is situated [see 2.7 for more information].

2.4.3 In considering all applications for renewal of a licence the Council will take into account:

- a) crime and disorder [see 2.5 for more information];
- b) the character of the locality in which the Premises is situated [see 2.7 for more information].

2.5 Crime and Disorder

2.5.1 The issues that will be considered are:

- a) levels of recorded crime in the area of a Sex Establishment that give the police cause for concern;
- b) past demonstrable adverse impact from the licensed activity;
- c) whether appropriate measures have been agreed and put into effect by the applicant/licence holder to mitigate any adverse related impacts.

2.6 Cumulative Impact

2.6.1 Without prejudice to any other sections of this Policy, the Council will consider the cumulative effect of all licensed premises within the location of a Premises being considered.

2.6.2 Whilst an individual Premises alone may not have sufficient adverse effect on a location to cause the Council concern, the combined effect of more than one such Premises may be sufficient to cause concern.

2.7 The Location of Premises

2.7.1 In accordance with relevant case law, the Council shall decide on the suitability of a particular locality for a Sex Establishment as a matter of fact to be determined by the particular circumstances of each case and not by the prescription of boundaries as stated on a map.

2.7.2 The Council is mindful of its power to determine that no Sex Establishment should be located in a particular locality, **in other words that the appropriate number of licensed Premises for a particular locality is zero.**

2.7.3 Notwithstanding the above, licences are likely to only be granted in predominately commercial areas or non-residential rural areas and the Council is mindful of its power to determine each application on its own merits. Applications will not normally be granted if they are to be within:

- a) areas that are exclusively, or predominantly, residential in character; or
- b) the vicinity of residential properties; or
- c) 200 metres of a school or any other premises used by children or vulnerable adults; or
- d) a publicly accessible open space that is regularly frequented by children or vulnerable adults; or

- e) 200m of a place of worship; or
- f) areas with a level of recorded crime that give the police cause for concern; or
- g) areas that are likely to be adversely effected due to the cumulative impact of existing Sex Establishments; or
- h) 200 metres of an existing Sex Establishment (where one exists and the appropriate number of licensed Premises for that locality has not be reached).

2.8 Safeguarding Children and Vulnerable Adults

2.8.1 The Council recognises that safeguarding responsibilities do not just apply on licensed Premises, indeed children should not be able to gain access. Licence holders should be equally aware of children and vulnerable adults in the proximity of Premises that may be waiting for others.

2.8.2 Licence holders are encouraged to ensure that's suitable management controls are in place to safeguard children and vulnerable adults. Measures may include, but are not limited to:

- a) awareness training for staff;
- b) regular patrols of the Premises, including external areas and the immediate proximity, to identify children and vulnerable adults;
- c) monitoring of patrons as they leave the Premises;
- d) recording and reporting safeguarding concerns to the police.

2.8.3 The Council will place significant weight on safeguarding issues and/or concerns when determining the fitness of an applicant/licence holder to obtain or hold a licence.

2.9 Consultation Arrangements

2.9.1 The Council may directly consult local residents and/or occupants of nearby premises in relation to applications for the grant, renewal, variation or transfer of a licence in addition to any statutory public notices required by the Act.

3. DETERMINATION OF APPLICATIONS

3.1 General

3.1.1 In determining an application relating to a Sex Establishment licence the Council will assess the application on its merits having regard to the content of this Policy, the relevant legislation and any relevant guidance that may be issued from time to time.

3.1.2 Where it is necessary for the Council to depart substantially from this policy, clear and compelling reasons for doing so will be given. Only a Licensing and Appeals Sub-Committee may authorise a departure from the policy if it feels it appropriate for a specific application.

3.1.3 The sub-committee will ordinarily consider granting licences of a one year duration however may consider it appropriate to grant a licence for a shorter term base don the individual circumstances of the application.

3.2 Grant of a new Licence

- 3.2.1 All applications for the grant of a new licence will be determined by a Licensing and Appeals Sub-Committee, irrespective of whether representations are received.
- 3.2.2 The Council will give the applicant(s) the opportunity of appearing before and being heard by a Licensing and Appeals Sub-Committee prior to its determination.
- 3.2.3 In determining an application for the grant, renewal, transfer or variation of a licence, the Council must have regard to any representations that it has received.

3.3 Renewal, Transfer or Variation of an Existing Licence

- 3.3.1 The granting of an application for renewal, transfer or variation of an existing licence will be considered by the Head of Housing and Public Protection unless representations are received.
- 3.3.2 Where representations are received, the application will be referred to a Licensing and Appeals Sub-Committee for determination.
- 3.3.3 **In the absence of any representations**, if the Head of Housing and Public Protection is minded to refuse such an application, the application will be referred to a Licensing and Appeals Sub-Committee for determination.

3.4 Fees

- 3.4.1 **Having regard to the Supreme Court judgement *R (on the application of Hemming (t/a Simply Please Ltd) and others) v Westminster City Council*, the fees charged by the Council for licences will only cover the reasonable cost of administering and enforcing the licensing regime.**
- 3.4.2 **The fees will be reviewed at least on an annual basis and published on the Council's website. The Head of Housing and Public Protection is authorised to set Sex Establishment licensing fees on behalf of the Council.**
- 3.4.3 **The fee for the grant of a new Sex Establishment licence will consist of two separate parts:**
 - a) **the cost of administering the application, [the application fee] and**
 - b) **the cost of enforcing the legislation during the licence period [the annual fee].**
- 3.4.4 **At the point of the initial application for a grant of a Sex Establishment licence, only the application fee specified in 3.4.3 above will be chargeable. The annual fee specified in 3.4.3 above will only be chargeable upon the grant of a licence and must be paid prior to the licence being issued.**
- 3.4.5 **In the event of an application being refused, the application fee will not be refunded however the annual fee, should it have been paid voluntarily at the time of application, would be fully refundable.**

3.5 Grounds for Refusal

3.5.1 The Act provides five mandatory grounds and four discretionary grounds for refusal of a Sex Establishment licence. Any refusal will be linked to one or more of these nine grounds with appropriate reasons given for the decision.

3.5.2 Mandatory Grounds

The mandatory grounds for refusal of a Sex Establishment licence are that the applicant:

- a) is under eighteen (18) years of age;
- b) is, for the time being, disqualified from holding a Sex Establishment licence;
- c) is not a body corporate, and is not resident (or has not been resident) in an EEA state for six (6) months immediately preceding the date of the application;
- d) is a body corporate which is not incorporated in an EEA state;
- e) has in the period of twelve (12) months preceding the date of the application been refused the grant or renewal of a licence for the Premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.

3.5.3 Discretionary Grounds

The discretionary grounds for refusal of a Sex Establishment licence are that:

- a) the applicant is unsuitable to hold a licence by reason of having been convicted of an offence or for any other reason;
- b) if the licence were to be granted, the business to which it relates would be managed by, or carried on for, the benefit of a person (other than the applicant) who would be refused the grant of such a licence if he made the application himself;
- c) the number of Sex Establishments, or Sex Establishments of a particular kind, 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) the grant would be inappropriate, having regard to:
 - i) the character of the relevant locality;
 - ii) the use to which any premises in the vicinity are put;
 - iii) the layout, character or condition of the Premises, vehicle, vessel or stall in respect of which the application is made.

Further guidance on the criteria the Council will use to determine these discretionary grounds can be found within this Policy.

3.6 Representations

3.6.1 The Council is under a duty to consider any representations made within the prescribed twenty-eight (28) day consultation period starting on the day following the receipt of a valid application.

3.6.2 Case law has established that there is discretion to hear later representations provided the applicant is given the opportunity to deal with those objections.

3.6.3 In order to ensure a fair hearing for all parties, the Council will ordinarily accept late representations providing that they are relevant. The applicant will be given a period

of no less than ten (10) working days to consider all representations prior to a Licensing and Appeals Sub-Committee hearing.

4. POWER TO PRESCRIBE CONDITIONS

- 4.1 Section 13 of Schedule 3 of the Act provides a power for the Council to specify standard conditions in relation to Sex Establishment licences.
- 4.2 The Council's standard conditions are detailed in **Appendices A to D** of this Policy. Appendix A lists conditions that will be applied to all Sex Establishment licences. Appendices B, C and D list the additional standard conditions, based on the specific type of establishment, which will be applied in addition to Appendix A.
- 4.3 All licences will be granted, renewed, transferred or varied subject to these standard conditions unless expressly excluded or varied by a Licensing and Appeals Sub-Committee.
- 4.4 Notwithstanding the above, a Licensing and Appeals Sub-Committee may impose specific non-standard conditions on a licence where they are deemed necessary based on the specific individual merits of the application.

5. REVOCATION OF A LICENCE

- 5.1 The Council is aware that it may consider the revocation of a Sex Establishment licence either upon receipt of representations or by act unilaterally.
- 5.2 The decision to revoke a licence is reserved for a Licensing and Appeals Sub-Committee who will determine the application in accordance with the procedure detailed in section 6 of this policy.
- 5.3 Any decision to revoke a licence will be accompanied by appropriate reasons for the decision and will relate to either:
 - a) any of the mandatory grounds listed in section 3.5.2 of this policy; or
 - b) the first two discretionary grounds listed in section 3.5.3 a) and b) of this Policy.
- 5.4 Revocation of a licence automatically disqualifies its holder from holding or obtaining another licence within North Hertfordshire for a period of twelve (12) months. It does not prevent him holding a licence in another local authority area therefore the Council reserve the right to inform any other local authority, upon request, of any licences revoked within North Hertfordshire, including reasons for the revocation.

6. HEARING PROCEDURE

- 6.1 Where the Council is required to determine an application by reference to a Licensing and Appeals Sub-Committee, the applicant and persons making representations will be advised of the date, time and venue of the hearing **and invited to attend**.
- 6.2 In preparation for the hearing, all parties will receive a copy of the licensing officer's report **no less than ten (10) working days** prior to the hearing. The report will

contain a summary of the application, **full copies of all relevant representations** and any other relevant information.

- 6.3 At the hearing, all parties will have the opportunity to address the Sub-Committee and ask questions of fact of other parties. The Sub-Committee may also ask questions of all parties that they feel relevant to the determination process.
- 6.4 The Sub-Committee will communicate their decision at the end of the hearing and all parties will receive written confirmation of the decision within seven (7) days.
- 6.5 **The names and addresses of persons making representations will be published in the licensing officer's report which will be made publicly available in accordance with the Local Government Act 1972. Other personal data such as telephone numbers and email addresses will not be included within the report.**
- 6.6 **The names and addresses of persons making representations may be withheld from the publicly available licensing officer's report upon request however this information will be provided to members of the Licensing and Appeals Sub-Committee and their advisors. Should a person having made a representation wish to speak at the Licensing and Appeals Sub-Committee hearing they will have to identify which representation within the licensing officer's report was submitted by them.**

7. OPERATION AND MANAGEMENT

- 7.1 The Council requires all licensees to ensure that they and their employees comply with all relevant licence conditions and health and safety regulations.
- 7.2 In terms of management of licensed Premises, the Council strongly encourages, where possible and appropriate, that licensees:
- a) work with statutory agencies such as the police, and the Council in order to create and maintain a safe environment, both within licensed Premises and in the environs around them;
 - b) develop crime prevention strategies in consultation with the police and the Council, particularly those whose Premises are located in areas with high levels of recorded crime.
 - c) develop strategies and procedures to increase access for disabled people to the Premises.
 - d) ensure that all relevant staff be appropriately trained in areas such as health and safety, first aid, **safeguarding** and fire precautions.
- 7.3 It is the responsibility of the applicants(s)/licence holder(s) to ensure that all other relevant statutory permissions are obtained prior to the operation of the Premises.

8. ENFORCEMENT

- 8.1 It is recognised that well-directed enforcement activity by the Council benefits not only the public but also the responsible members of the trade.

- 8.2 In pursuing its objective of encouraging responsible businesses, the Council will operate a proportionate enforcement regime in accordance with the Council's Housing and Public Protection Statement of Enforcement Policy and Practice.

9. POLICY DURATION AND AMENDMENTS

- 9.1 This Policy will take effect from 1 January 2018 and will be kept under review and amended as and when necessary to reflect changes in legislation, case law, statutory guidance and best practice.
- 9.2 Administrative amendments to this Policy, required by virtue of legislative changes, revised statutory guidance or a Council restructure, may be made by the Licensing Manager. Amendments under this section are restricted to those required to accurately reflect the current legal or administrative position rather than amendments that change the focus of local policy.
- 9.3 The Policy will be periodically reviewed to ensure it remains fit-for-purpose and either amended where necessary or approved for continuation by the Executive Member for Housing and Environmental Health, save for section 9.4.
- 9.4 In the event of any significant amendment to the Policy, a full public consultation will be undertaken prior to consideration by the Licensing and Appeals Committee who will make a recommendation for consideration by Cabinet.
For the purpose of this section, a significant amendment is defined as one that:
- (i) will have significant financial impact on applicants, licence holders or the public;
 - (ii) will have a significant procedural impact on applicants, licence holders or the public; or
 - (iii) may not be perceived by the trade or the public to be consistent with the policy objectives set out in section 1.2 above.

10. DEFINITIONS

- 10.1 **The Act**
Local Government (Miscellaneous Provisions) Act 1982
- 10.2 **Authorised Officer**
any Officer of the Council authorised under the Council's Scheme of Delegation as contained within the Constitution
- 10.3 **the Council**
North Hertfordshire District Council
- 10.4 **Head of Housing and Public Protection**
the current post-holder (or the Head of Service of the appropriate Service Area following any subsequent restructure), or any nominated Deputy authorised by the Council's Scheme of Delegation
- 10.5 **Licence Holder**
a person who holds a Sex Establishment Licence under the Act
- 10.6 **this Policy**
North Hertfordshire District Council's Sex Establishment Policy

- 10.7 **Premises** *(as defined in section 2 of Schedule 3 of the Act)*
a building or part of a building and any forecourt, yard or place of storage used in connection with a building or part of a building which is the subject of a Sex Establishment Licence granted under the Act
- 10.8 **Sex Establishment**
A Sex Establishment means either a Sexual Entertainment Venue a Sex Shop or a Sex Cinema as defined below in extracts from the Act.
- 10.9 **Sexual Entertainment Venue** *(as defined in Section 3 of Schedule 2A of the Act)*
- (1) In this Schedule “Sexual Entertainment Venue” means any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer.
 - (2) In this paragraph “relevant entertainment” means:
 - (a) any live performance; or
 - (b) any live display of nudity;
which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether verbally or other means).
 - (3) The following are not Sexual Entertainment Venues for the purposes of this Schedule:
 - (a) Sex Cinemas and Sex Shops;
 - (b) premises which the provision of relevant entertainment as mentioned in sub-paragraph (1) is such that, at the time in question and including any relevant entertainment which is being provided at that time:
 - (i) there have not been more than eleven occasions on which relevant entertainment has been so provided which fall (wholly or partly) within the period of 12 months ending with that time;
 - (ii) no such occasion has lasted for more than 24 hours; and
 - (iii) no such occasion has begun within the period of one month beginning with the end of any previous occasion on which relevant entertainment has been so provided (whether or not that previous occasion falls within the 12 month period mentioned in sub-paragraph (i));
 - (c) premises specified or described in an order made by the relevant national authority.
- 10.10 **Sex Cinema** *(as defined in Section 3 of Schedule 3 of the Act)*
- (1) In this Schedule, “Sex Cinema” means any premises, vehicle, vessel or stall used to a significant degree for the exhibition of moving pictures, by whatever means produced, which:
 - (a) are concerned primarily with the portrayal of, or primarily deal with or relate to, or are intended to stimulate or encourage:
 - (i) sexual activity; or
 - (ii) acts of force or restraint which are associated with sexual activity;or
 - (b) are concerned primarily with the portrayal of, or primarily deal with or relate to, genital organs or urinary or excretory functions,
but does not include a dwelling-house to which the public is not admitted.
 - (2) No premises shall be treated as a Sex Cinema by reason only:
 - (a) if they may be used for an exhibition of a film (within the meaning of paragraph 15 of Schedule 1 to the Licensing Act 2003) by virtue of an authorisation (which the meaning of section 136 of that Act), of their use in accordance with that authorisation; or

- (b) of their use for an exhibition to which section 6 of that Act (certain non-commercial exhibitions) applies given by an exempted organisation within the meaning of section 6(6) of the Cinemas Act 1985.

10.11 **Sex Shop** *(as defined in Section 4 of Schedule 3 of the Act)*

- (1) In this Schedule “Sex Shop” means any premises, vehicle, vessel or stall used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating:
 - (a) sex articles; or
 - (b) other things intended for use in connection with, or for the purpose of stimulating or encouraging:
 - (i) sexual activity; or
 - (ii) acts of force or restraint which are associated with sexual activity.
- (2) No premises shall be treated as a Sex Shop by reason only of their use for the exhibition of moving pictures by whatever means produced.
- (3) In this Schedule “sex article” means:
 - (a) anything made for use in connection with, or for the purpose of stimulating or encouraging:
 - (i) sexual activity; or
 - (ii) acts of force or restraint which are associated with sexual activity; and
 - (b) anything to which sub-paragraph (4) below applies.
- (4) This sub-paragraph applies:
 - (a) to any article containing or embodying matter to be read or looked at or anything intended to be used, either alone or as one of a set, for the reproduction or manufacture of any such article; and
 - (b) to any recording of vision or sound, which:
 - (i) is concerned primarily with the portrayal of, or primarily deals with or relates to, or is intended to stimulate or encourage, sexual activity or acts of force or restraint which are associated with sexual activity; or
 - (ii) is concerned primarily with the portrayal of, or primarily deals with or relates to, genital organs, or urinary or excretory functions.

10.12 **Children**

A person under eighteen (18) years of age

10.13 **Vulnerable Adults**

A person eighteen (18) years of age or above who is, or may be, in need of community care services by reason of disability, age or illness; and is, or may be, unable to take care of, or unable to protect, him or herself against significant harm or exploitation.

APPENDIX A

Standard Conditions Applicable to Licences for Sex Establishments

The following conditions will be attached to all Sex Establishment licences issued by North Hertfordshire District Council pursuant to paragraph 13(1) of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, unless otherwise amended by a Licensing and Appeals Sub-Committee

1 General

- a) These standard conditions will apply to all licences unless disapplied or varied by a Licensing and Appeals Sub-Committee.
- b) The granting of a licence for a Sex Establishment shall not be deemed to convey any approval or consent which may be required under any enactment by law order or regulation other than the Third Schedule of the Local Government (Miscellaneous Provisions) Act 1982.
- c) In the event of a conflict between these standard conditions and any special conditions contained in a licence relating to a Sex Establishment, the special conditions shall prevail.

2 Conduct and Management of Sex Establishment

- a) Where the licensee is a body corporate or unincorporated body any change of director, company secretary or other person responsible for the management of the body is to be notified in writing to the Council within fourteen (14) days of such change. Such written details as the Council may require in respect of any new director, secretary or manager are to be furnished within fourteen (14) days of a request in writing from the Council.
- b) The licensee or some responsible person nominated by him in writing for the purpose of managing the Sex Establishment in his absence shall be in charge of and upon the Premises during the whole time they are open to the public. Details of any responsible person nominated by the licensee (including photographs) must be supplied to and approved in writing by the Council before managing the Premises.
- c) The name of the person responsible for the management of a Sex Establishment shall be prominently displayed within the Premises.
- d) The licensee shall maintain a daily register. It must record the name and address of any person who is to be responsible for managing the Sex Establishment in his absence and the names and addresses of those employed in the Sex Establishment. The register is to be completed each day within **sixty (60)** minutes of the Sex Establishment opening for business and is to be available for inspection by the police and by authorised officers of the Council.
- e) The licensee shall retain control over all portions of the Premises and shall not let, licence or part with possession of any part of the Premises.
- f) The licensee shall maintain good order in the Premises.

- g) No person under the age of eighteen (18) years shall be admitted to the Premises or employed in the business of a Sex Establishment.
- h) The licensee shall ensure that the public are not admitted to any part or parts of the Premises other than those which have been approved by the Council.
- i) No part of the Premises shall be used by prostitutes (male or female) for the purposes of solicitation or of otherwise exercising their profession.
- j) Neither the licensee or any employer or other person shall seek to obtain custom for the Sex Establishment by means of personal solicitation anywhere in the District of North Hertfordshire.
- k) The licensee shall comply with all statutory provisions and any regulations made thereunder.
- l) The licensee shall ensure that during the hours the Sex Establishment is open for business every employee, with the exception of any performer in a Sexual Entertainment Venue, wears a badge of a type to be approved by the Council indicating his name and that he is an employee.
- m) The copy of the licence and of these standard conditions required to be exhibited in accordance with paragraph 14 (1) of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 shall be reproductions to the same scale as those issued by the Council. The copy of the licence shall be displayed, framed and exhibited to the satisfaction of the Council. A clean and legible copy of these standard conditions shall be retained on the Premises and available upon request.
- n) No change of use of any portion of the Premises from that approved by the Council shall be made without the consent of the Council. Other statutory permissions may also be required.
- o) Change from one type of Sex Establishment to another shall not be effected with the written consent of the Council.

3 External Appearance

- a) No display, advertisement, word, letter, model, sign, placard, board, notice, device representation, drawing, writing, or any matter or thing (whether illuminated or not) shall be exhibited so as to be visible from outside the Premises except:
 - i) any notice of a size and in a form approved by the Council which is required to be displayed so as to be visible from outside the Premises by law, or by any conditions of a licence granted by the Council.
 - ii) such display, advertisement, word, letter, model, sign, placard, board, notice, device, representation, drawing, writing, or any matter or thing as shall have been approved by the Council.
- b) No external loudspeakers shall be used or installed at the Premises without the written consent of the Council
- c) No exterior lighting shall be used or installed at the Premises without the written consent of the Council.

4 State, Condition and Layout of the Premises

- a) The Premises shall be maintained in good repair and condition.
- b) Lighting in all parts of the Premises as approved by the Council shall be in operation continuously during the whole of the time the Sex Establishment is open to the public.
- c) The number, size and position of all doors or openings provided for the purpose of the ingress and egress of the public shall be approved by the Council and shall comply with the following requirements:
 - i) all such doors or openings approved by the Council shall be clearly indicated on the inside by the word "exit".
 - ii) doors and openings which lead to parts of the Premises to which the public are not permitted to have access shall have notices placed over them marked "private".
 - iii) save in the case of emergency, no access shall be permitted through the Premises to any unlicensed Premises adjoining or adjacent.
- d) The external doors to the Sex Establishment shall be fitted with a device to provide for their automatic closure and such device to provide for their automatic closure and such devices shall be maintained in good working order.
- e) The licensee shall make provision in the means of access both to and within the Sex Establishment for the needs of members of the public visiting the Sex Establishment who are disabled.
- f) Alterations or additions either internal or external and whether permanent or temporary to the structure, lighting or layout of the Premises shall not be made except with the prior approval of the Council.
- g) All parts of the Premises shall be kept in a clean and wholesome condition to the satisfaction of the Council.

5 Safety

- a) The licensee shall take all reasonable precautions for the safety of the public and employees.
- b) The licensee shall comply with any fire prevention and safety measures that may be required of him by The Regulatory Reform (Fire Safety) Order 2005.
- c) The Premises shall be provided with fire appliances suitable to the fire risks of the Premises and such fire appliances shall be maintained in a proper working order and shall be available for instant use.

APPENDIX B

Standard Conditions for Sex Shops

The following conditions will be attached to all Sex Shop licences issued by North Hertfordshire District Council pursuant to paragraph 13(1) of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, unless otherwise amended by a Licensing and Appeals Sub-Committee, and in addition to the standard Sex Establishment conditions listed in Appendix A.

1 Times of Opening

- a) Unless amended by a Licensing and Appeals Sub-Committee, the usual permitted hours shall be:

Mondays	0900hrs – 1900hrs
Tuesdays	0900hrs – 1900hrs
Wednesdays	0900hrs – 1900hrs
Thursdays	0900hrs – 1900hrs
Fridays	0900hrs – 1900hrs
Saturdays	0900hrs – 1900hrs

- b) Unless amended by a Licensing and Appeals Sub-Committee, a Sex Shop shall not be open on Sundays, Good Friday, Easter Day, Christmas Day or any public holiday.

2 Goods available in Sex Shops

- a) All sex articles and other things displayed for sale, hire, exchange or loan within a Sex Shop shall be clearly marked to show to persons who are inside the Sex Shop the respective prices to be charged.
- b) All printed matter offered for sale, hire, exchange or loan shall be available for inspection prior to purchase and a notice to this effect is to be prominently displayed within the Sex Shop **so as to be readily visible to any person visiting the Premises, provided that this condition excludes films or video films from this requirement.**
- c) No film or video film shall be exhibited, sold, **hired, exchanged or loaned** 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 film so certified.
- d) The licensee shall, without charge, display and make available in the Sex Shop such free literature on counselling of matters related to sexual problems **and on sexually transmitted diseases** as may be published by the Family Planning Association and by such other similar organisations as may be specified by the Council. Such literature is to be displayed in a prominent position approved by the Council adjacent to all payment points in the Sex Shop **so as to be readily visible to any person at any such payment point.**
- e) A Sex Shop shall be conducted primarily for the purpose of the sale of goods by retail.

3 External Appearance

- a) The entrance to the Premises shall be of a material or covered with a material which will render the interior of the Premises invisible to passers-by, and shall be so provided with a partition as to ensure that the interior of the Premises remain invisible to such passers by when the entrance is open.
- b) Windows and openings to the Premises other than entrances shall not be **permanently** obscured otherwise than with the consent of the Council but shall have suspended behind them, in a position and at an position approved by the Council, opaque screens or blinds of a type and size approved by the Council **so as to ensure that the interior of the Premises is obscured from the view** of passers-by.
- c) No fastenings of any description shall be fitted upon any booth or cubicle within the Sex Establishment nor shall more than one person (including any employee) be present in any such booth or cubicle at any time.
- d) **Any facility for previewing a film, video recording or similar material shall be physically separated from the display area of the Sex Shop in such a manner that no material being displayed by way of preview shall be visible or audible outside the preview area.**

APPENDIX C

Standard Conditions for Sexual Entertainment Venues

The following conditions will be attached to all Sexual Entertainment Venue licences issued by North Hertfordshire District Council pursuant to paragraph 13(1) of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, unless otherwise amended by a Licensing and Appeals Sub-Committee, and in addition to the standard Sex Establishment conditions listed in Appendix A.

1. The licence holder will have a suitable management structure in place to deal with any issues or problems that may arise at all times whilst the venue is operating as a Sexual Entertainment Venue.
2. The licence holder shall ensure that a suitable number of trained staff are employed and present to supervise the interior of the Premises (“floor supervisors”) at all times whilst performances are being given under this licence.
3. The licence holder shall ensure that, during the hours the Sexual Entertainment Venue is open for business, every floor supervisor wears a badge of a type approved by the licensing authority indicating his or her name and that he or she is a floor supervisor.
4. No performers under the age of eighteen (18) years will be permitted.
5. The licence holder will retain a personnel file on each performer detailing as a minimum the following information:
 - (i) full name and address (including written proof of name and address)
 - (ii) photographic proof of ID
 - (iii) proof of entitlement to work
 - (iv) contract of employment
6. The licence holder shall ensure to the licensing authority’s satisfaction (including, where required, obtaining planning or building control consents) that the interior of the part of the Premises used as a Sexual Entertainment Venue is not visible from the outside of the Premises or from any other part of the Premises used for a purpose other than that of a Sexual Entertainment Venue. At no point may performers be visible from outside the Premises or from any other part of the Premises used for a purpose other than that of a Sexual Entertainment Venue.
7. Where the licensing authority has specified a capacity figure in writing, the licence holder shall ensure that that figure is not exceeded at the premises at any time whilst sexual entertainment is taking place.
8. Suitable and secure changing facilities must be provided for all performers away from the main performance area. No public access to the changing facilities will be permitted.
9. Performers shall only perform on the stage area, or in such other areas of the licensed Premises as may be approved in advance by the licensing authority and shall only perform to seated customers.

10. Performers shall remain clothed in public areas and all other areas except while performing in areas specified by the licensing authority as where sexual entertainment may be provided.
11. Performers shall dress fully at the end of each performance.
12. Performers shall not accept any telephone number, e-mail address, address or contact information from any customer, except in the form of a business card which must be surrendered to the licence holder or his or her representative before leaving the Premises.
13. A Performer is never to be alone in the company of a customer except in an area open to the public within the Premises.
14. The licence holder shall ensure a sufficient number of staff are employed inside the Premises whilst sexual entertainment is provided to supervise the Performers and manage customers.
15. No Performer shall perform nude or semi-nude dancing of any description unless in an approved area and with a floor supervisor present within five metres of the Performer.
16. Performers are never to be in the company of one or more customers except in an area open to the public within the Premises.
17. The licence holder shall ensure that during performances to which this licence relates:
 - (i) Performers do not perform any act that clearly simulates any sexual act
 - (ii) Performers do not intentionally touch a customer any time during the performance (i.e. any contact shall only be entirely accidental or entirely due to a third party)
 - (iii) Performers do not use inappropriate, suggestive or sexually graphic language at any time
 - (iv) Performers do not intentionally touch the genitals or breasts of another performer or knowingly permit another Performer intentionally to touch their genitals or breasts
 - (v) 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
 - (vi) Sex toys must not be used by performers and penetration of the genital area by any means must not take place.
18. There must be no physical contact between performers and patrons before, during or after a performance (other than the transfer of money to the performers' hands at the beginning or conclusion of a performance).
19. The licence holder shall ensure that during any performances to which this Licence relates:
 - (i) customers do not dance at any time except in areas approved by the licensing authority as being separate from areas for sexual entertainment; for the avoidance of doubt, audience participation in a performance is not permitted.

(ii) customers remain fully clothed at all times

20. No person under eighteen (18) years of age must be on the Premises when the entertainment authorised by the licence is taking place.
21. The licence holder will provide an operating schedule for the venue which will contain, as a minimum, details of:
 - (i) staff training records and personnel files
 - (ii) a performers' code of conduct (including as a minimum, policies on alcohol and drugs misuse, liaison with patrons policy and welfare policy)
 - (iii) performers' personnel files
 - (iv) management structure
 - (v) security log (including details required in condition 5 above and any incidents dealt with by security)
 - (vi) venue health & safety policy (including appropriate risk assessments)
 - (vii) fire risk assessment and emergency evacuation plan
 - (vii) house rules and disciplinary procedures
22. Where a Sexual Entertainment Venue offers private performances of lap-dancing, hostess facilities, or similar, there shall be prominently and legibly displayed a comprehensive tariff of all charges and prices which shall be illuminated and placed in such a position that it can easily be read by persons before entering the main entertainment area. No employee shall stand in such a position as to obscure the notice.
23. No charge for any service, including the company of a hostess, shall be made to a patron unless the patron has specifically ordered the service having first been made aware of the cost.
24. No charge shall be made to any patron for any drink provided for a hostess or performer unless that patron has specifically ordered it having first been made aware of the cost.
25. A minimum of two (2) SIA-registered door supervisors will be on duty at all times whilst the venue is being operated as a Sexual Entertainment Venue. A further SIA-registered door supervisor must be provided for each one hundred (100) patrons or part thereof over and above one hundred (100) patrons. The licence holder will keep a record of the name and badge number of all door supervisors employed at the Premises.
26. Any individual employed on the Premises to conduct activities of a security operative (within the meaning of Part 1 of Schedule 2 to the Private Security Industry Act 2001) must be licensed by the Security Industry Authority.
27. Closed Circuit Television (CCTV) must be installed, maintained and operated to the satisfaction of Hertfordshire Constabulary at all times when the Premises is open to the public and providing licensable activities. It must cover all areas where performances take place and at the entrance to the Premises.
28. All CCTV tapes, or other medium used for CCTV recording, must be stored for twenty-eight days with accurate time and date markings, and must not be removed from the Premises unless requested by Hertfordshire Constabulary or the licensing authority; after this period, recordings may be destroyed. Destruction records must

include the name and position within the organisation of the person(s) who destroyed the recordings, the reason for the destruction and the identity of the tape or other medium that was destroyed. All recordings kept for the twenty-eight day period must be original recordings; copies of the recordings should not be taken unless requested by Hertfordshire Constabulary or the licensing authority.

29. There must be no display visible outside the Premises, either in writing, symbols, photographs, or other images, which indicates that entertainment involving nudity or sexual performances takes place on the Premises. Performances shall not be the subject of any advertising involving the distribution of leaflets, promotion by canvassers or touting.
30. The authorised entertainment must only take place in the designated areas approved by the Council and identified on the plan attached to the licence.
31. The licence holder shall ensure that during the performance of a table dance:
 - (i) customers are seated in an upright position against the back of the booth or seat with their hands by their sides or on a table in front of them before a Performer can start a table dance
 - (ii) customers remain seated during the entire performance of the dance
 - (iii) for the purpose of restraint only, Performers only touch a customer above the customer's chest with their hands only
 - (iv) Performers do not sit next to, or on, or straddle, the customer
 - (v) Performers do not place their feet on the seats

APPENDIX D

Standard Conditions for Sex Cinemas

The following conditions will be attached to all Sex Cinema licences issued by North Hertfordshire District Council pursuant to paragraph 13(1) of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, unless otherwise amended by a Licensing and Appeals Sub-Committee, and in addition to the standard Sex Establishment conditions listed in Appendix A.

1. No sex articles or other things intended for use in connection with or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity shall be displayed, sold, hired, exchanged, loaned or demonstrated in a Sex Cinema.
2. The licence holder shall not supply or permit to be supplied to any person, other than a person employed to work on the premises, any article of food or drink whether for consumption on or off the Premises.
3. No fastenings of any description shall be fitted upon any booth or cubicle within the Sex Cinema, nor shall more than one (1) person (including any employee) be present in any such booth or cubicle at any time.
4. No film or video film shall 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 film so certified. Any such film or video film shall comply with the Video Recordings Act 1984 or any subsequent associated legislation.