

**Report to** Licensing committee

30 January 2020

**Report of** Environmental health and public protection manager

**Subject** Statement of Licensing Policy for Sex Establishments

**Item**

**6**

---

**Purpose**

To consider a revised draft Statement of Licensing Policy for Sex Establishments, under the Local Government (Miscellaneous Provisions) Act 1982, for recommendation to Council for adoption as the council's formal policy.

**Recommendation**

To recommend to Council the adoption of the Statement of Licensing Policy for Sex Establishments attached at Appendix A as the council's formal policy.

**Corporate and service priorities**

The report helps to meet the corporate priorities of inclusive economy and people living well.

**Financial implications**

None.

**Ward/s:** All Wards

**Cabinet member:** Councillor Maguire - Safe and sustainable city environment

**Contact officers**

Tony Shearman, Public protection manager

01603 212278

**Background documents**

None

*This page intentionally left blank*

# Report

1. The council has adopted the relevant part of the Local Government (Miscellaneous Provisions) Act 1982 (LGMPA 82) to enable it to licence sex establishments; which are defined as:-
  - Sexual Entertainment Venues
  - Sex Cinemas
  - Sex Shops
2. There is no specific requirement under the legislation for a local authority to adopt a policy, however it is considered appropriate to do so to enable the council to:-
  - Set out its approach for the benefit of operators
  - Guide and reassure the public and other public authorities
  - Ensure transparency
  - Ensure consistency
  - Guide and focus members of the Licensing committee
3. The LGMPA 82 (as amended by the Police and Crime Act 2009) allows a licensing authority to set out in its policy numbers of sex establishments that it considers appropriate for a particular locality or localities, if it feels it appropriate to do so.
4. However, it is important to note that any numbers specified in a policy cannot be considered absolutely binding, and that each application must be considered on its own merits.
5. The council's current policy, adopted in 2014, does not include any such control on numbers of licensed premises.
6. An updated draft policy, which included defining relevant localities and appropriate numbers of licensed premises, was considered by the Licensing committee 18 December 2018, and authorised for public consultation. This public consultation took place between January and March 2019.
7. The results of the consultation were considered by the Licensing committee 6 June 2019, and an amended draft policy recommended for adoption by full council.
8. Part of the resolution of the Licensing committee 6 June 2019 included the following amendment to the draft policy:-

*(4) To bring the annual renewal of each SEV licence to the committee or consideration.*

However it was not entirely clear from this resolution, exactly how the previous wording of the draft policy relating to officer delegations, was to be amended.

9. In order to provide clarity on this matter, a meeting was held with the chair and vice chair of the Licensing committee on the 18 November 2019, and amended

wording of the relevant paragraphs was agreed, as reflecting the intentions of the committee, and is set out below:-

Original wording-

*If the application is valid and no objections have been received and there are no other statutory grounds for refusal, the application will be granted by way of delegated authority.*

*In cases where objections have been received, or if there are concerns regarding the characteristics of the locality, or any other discretionary ground of refusal, the application will be referred to the Licensing Committee for a hearing and determination of the application.*

Amended wording-

*Subject to the following paragraph, if the application is valid and no objections have been received and there are no other statutory grounds for refusal, the application will be granted by way of delegated authority.*

*In cases where objections have been received, or if there are concerns regarding the characteristics of the locality, or any other discretionary ground of refusal, including the application, if granted, leading to exceeding any maximum numbers of premises in a relevant locality, as detailed in section 4. of this policy, the application will be referred to the Licensing Committee for a hearing and determination of the application.*

10. Members are asked to consider this amended wording for inclusion in the policy.

11. A copy of the draft policy as recommended to council by the Licensing committee 6 June 2019, and amended as above by agreement with the chair and vice chair, is attached at Appendix A.



**NORWICH**  
City Council

**Local Government (Miscellaneous Provisions) Act 1982**

# **Statement of Licensing Policy**

**for**

## **SEX ESTABLISHMENTS**

**Incorporating Guidance and  
Standard Conditions**

Approved by Licensing Committee 6 June 2019  
Adopted by Full Council??

## Statement of Licensing Policy for Sex Establishments

### Contents

|  |  |    |
|--|--|----|
| 1                                      | Introduction   | 3  |
| 2                                      | Policy development and consultation details  | 4  |
| 3                                      | Types of Sex Establishment and definitions   | 4  |
| 4                                      | Location of Licensed Premises  | 5  |
| 5                                      | Application Process  | 6  |
| 6                                      | Consultation procedures and Commenting on licence applications   | 7  |
| 7                                      | Determination of applications  | 9  |
| 8                                      | Conditions   | 11 |
| 9                                      | Refusal of licences  | 11 |
| 10                                     | Revocation of licence  | 12 |
| 11                                     | Cancellation of licences   | 12 |
| 12                                     | Right to appeal a decision   | 12 |
| 13                                     | Compliance Monitoring and enforcement  | 13 |
| 14                                     | Exchange of Information  | 13 |
| 15                                     | Policy Evaluation and review   | 13 |
| Glossary, Definitions and Bibliography |  | 15 |
| Appendix                               |  |    |
| A                                      | Notice of Application for The Grant / Renewal / Transfer of a Sex Establishment Licence                                | 19 |
| B                                      | Standard Sex Establishment Licence Conditions Restrictions and Terms applicable to Sex Shops and Sex Cinemas           | 20 |
| C                                      | Standard Sex Establishment Licence Conditions Restrictions and Terms applicable to Mail-Order Premises                 | 25 |
| D                                      | Standard Sex Establishment Licence Conditions Restrictions and Terms applicable to Sexual Entertainment Venue Premises | 29 |

## 1. Introduction

This policy has been drafted following new legislative provisions introduced by the Policing and Crime Act 2009 (and adopted by the City Council) that allow the council to regulate lap dancing and similar venues, and provides a framework for regulation of all existing and future sex establishments in the City.

Norwich City Council has adopted schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (as amended by section 27 of the Policing and Crime Act 2009) so that it can regulate *sex establishments* in the City.

In this policy

- the Local Government (Miscellaneous Provisions) Act 1982 as amended is referred to as *The Act* unless otherwise stated.
- Norwich City Council as Licensing Authority for Sex Establishments is referred to as *the Authority*.

A Glossary of definitions and terms is provided at the end of the Policy for reference.

The policy is intended to set out clear and concise guidance, procedure and principles for the benefit of the Authority, the community, applicants and other relevant organisations.

Due to the requirement that each application must be considered on its own merits, although the Licensing Committee must have regard to this policy as part of their decision making process they are not rigidly bound by it. Should the Licensing Committee choose to depart from this policy, clear and concise reasons for doing so will be provided.

The policy also contains standard conditions which will be applied to the different types of sex establishment which forms part of any licence granted.

This policy relates to any premises wishing to operate as a Sex Shop, Sex Cinema or Sexual Entertainment Venue in Norwich.

Not all premises involved in such businesses will automatically require a Sex Establishment licence. Where there is an exemption within the legislation this has been set out in this policy document.

Notwithstanding matters contained within this policy document, consideration will be given to the provisions of the Human Rights Act 1998 when considering applications for Sex Establishment licences.

The Authority does not take a moral stance through the adoption of this policy. We recognise that Parliament has made it lawful to operate a sex establishment, and that such businesses are a legitimate part of the retail and leisure industries. It is our role as a licensing authority to regulate such premises in accordance with the law.

## 2. Policy development and consultation details

## Statement of Licensing Policy for Sex Establishments

In developing this policy the Authority has had regard to the legal requirements of the Act and the Policing and Crime Act 2009 and its duties under:

- section 17 of the Crime and Disorder Act 1998 to take all reasonable steps to reduce crime and disorder within the City;
- the Regulators' Compliance Code (set out under the Legislative and Regulatory Reform Act 2006) not to impede economic progress by the regulations we set out and to particularly consider the impact of regulations on small businesses; and
- the Provision of Services Regulations 2009 to ensure requirements are:
  - (i) non-discriminatory
  - (ii) justified by an overriding reason relating to the public interest
  - (iii) proportionate to that public interest objective
  - (iv) clear and unambiguous
  - (v) objective
  - (vi) made public in advance, and
  - (vii) transparent and accessible.

The Authority consulted on this policy between 16<sup>th</sup> January and 13<sup>th</sup> March 2019. It was approved by the Licensing Committee on the 6<sup>th</sup> June 2019 and adopted by Full Council on **????**

### 3. Types of Sex Establishment and definitions

There are 3 types of sex establishments (as defined in the Act):

- Sex Shops
- Sex Cinemas
- Sexual Entertainment Venues.

These terms are defined in Schedule 3 of the Act (and summarised in the Glossary below). It includes any premises, vehicle, vessel or stall used as a sex establishment but does not apply to the sale, supply or demonstration of articles which are manufactured for use primarily for the purposes of birth control or primarily relate to birth control.

In deciding whether entertainment is "relevant entertainment" in respect of a Sexual Entertainment Venue the Authority will judge each case on its merits, but will generally apply to:

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

The Authority recognises that not all premises which provide Adult entertainment facilities automatically require a Sex Establishment licence.

This is due to certain provisions and exemptions within the legislation as detailed below.



## Statement of Licensing Policy for Sex Establishments

Applications can be made to waive the requirement for a sex establishment licence. However, the Authority does not consider it would be appropriate to permit waivers from the requirements to hold a sex establishment licence except in extreme circumstances which will be considered by the Authority's Licensing Committee (for example, to allow a temporary re-location of a business following damage to licensed premises).

The Act provides an exemption allowing premises without a Sex Establishment Licence to provide *relevant entertainment* on an infrequent basis of no more than eleven occasions within a 12-month period, providing there is at least one month between each period of entertainment which itself does not last for more than 24 hours. However such premises will require to hold an appropriate authorisation under the Licensing Act 2003. In considering and granting such authorisations, which relate to nudity, striptease and similar, the Authority will have regard to the Authority's Statement of Licensing Policy and also the principles contained in this policy document

### 4. Location of Licensed Premises

The Authority acknowledges that a concentration of licensed premises in a particular area can result in a potential fear of crime, anti-social behaviour, noise pollution and other disturbance to residents. In such cases the amenity of local residents can be placed under severe pressure.

In considering the characteristics of a locality the Authority will take account of the density and proximity of:

- schools, nurseries, crèches, youth hostels and other similar educational or recreational facilities attended by children,
- parks and children's play areas,
- residential and sheltered accommodation,
- religious and community buildings,
- alcohol or entertainment licensed premises,
- other retail units (and their uses).

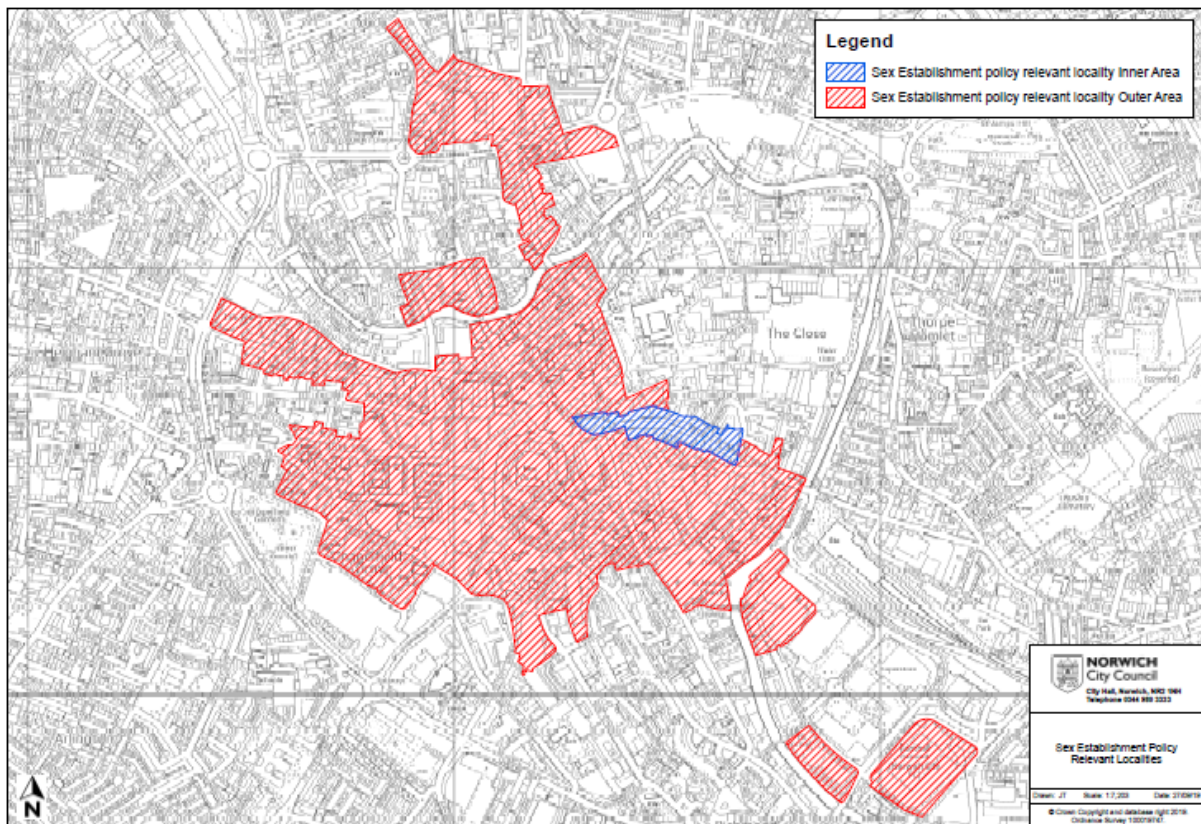
As provided for under the provisions of the Act, the Authority can refuse applications for new or renewed licences where the number of sex establishments in the relevant locality at the time the application is made is equal to or exceeds the number which we consider appropriate for that locality. This number can be 'nil'.

In recognising that different parts of the City have different characteristics the Authority has imposed a limit on the number of premises that may be licensed in a given area, and will treat each application upon its own merits. The Authority considers the maximum numbers should be:

| Locality   | number |
|--|--------|
| Sex establishment relevant locality - inner area   | 2      |
| Sex establishment relevant locality - outer area   | 2      |
| All city council areas outside those defined above | nil    |

## Statement of Licensing Policy for Sex Establishments

The Authority expects that applications for licences for permanent commercial premises should be from businesses with planning consent for the property concerned.



Map showing the inner and outer relevant locality areas

### 5. Application Process

Applicants should be aware that planning is a separate jurisdiction to licensing. Potential licence applicants should ensure that appropriate planning permission is in place prior to submission of an application for a licence.

Premises may require to hold a Licence under the Act as a Sex Establishment and also a separate licence under the Licensing Act 2003 (for the sale of alcohol and late night refreshment)

An application for the grant, renewal, transfer or variation of a Sex Establishment licence must be made in writing to the Authority in accordance with the requirements shown in Annex A to this policy together with the application fee,

Applications can be made in the following ways:

- By post/personal service to:  
The Licensing Team, Norwich City Council, City Hall, St Peter's Street,  
Norwich NR2 1NH
- Via Email: [licensing@norwich.gov.uk](mailto:licensing@norwich.gov.uk)

## Statement of Licensing Policy for Sex Establishments

- Online:  
[https://www.norwich.gov.uk/directory\\_record/1186/sex\\_shops\\_and\\_cinemas/category/108/sex\\_shops\\_and\\_cinemas](https://www.norwich.gov.uk/directory_record/1186/sex_shops_and_cinemas/category/108/sex_shops_and_cinemas)

The application must be copied by the applicant to the Police within 7 days after the date the application was made, except when received by the council electronically.

Applicants must provide their name, address and (where the applicant is an individual) their age, plus the premises address and the proposed licensed name of the premises.

Applicants must, at the time of submission of a new grant or variation application, provide a scheme showing the exterior design for consideration by the Authority before the premises are opened for business in order to ensure that exterior design of the premises shall be such that the interior of the premises is not visible to passers-by.

In addition, applicants must, at the time of submission of a new grant or variation application, provide a plan showing the interior layout of the premises for consideration by the Authority. In the case of Sexual Entertainment Venues such plan must outline the area where relevant entertainment will take place.

Applicants for Sexual Entertainment Venues must also submit a copy of their "House Rules". Such House Rules must contain the required conduct of performers which shall include matters containing conditions of licence, i.e. no touching, no meeting customers outside of the licensed premises for any purpose, no sex acts, no giving or taking phone numbers (including exchange of business cards). Such House Rules will form part of the licence (if granted) and may be subject to amendment by the Authority prior to approval.

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

Representatives of the Authority may, as part of the application process, visit the locality of the premises to establish whether there are any characteristics of the locality which may require consideration by the Licensing Committee.

Applicants must also give public notice of the application by publishing an advertisement in a local newspaper which circulates in the area of the Authority to which the application has been submitted. This must be published within 7 days of making the application.

If the application relates to a premises then there is an additional requirement for notice of the application to be displayed for 21 days on or near the premises where it can be conveniently read by the public. The notice, the form of which is prescribed by the Authority, must contain certain information. The Authority's prescribed notice is contained within this policy document as Appendix A.

Please note that with regard to applications tacit authorisation does not apply to new grant applications for sex establishment licences. This means applicants must wait for the Authority to determine their application before they can operate a sex establishment.

The appropriate fees for applications are set by the Authority and can be found on the Council's website. Application fees must be paid in full at the time of submission of the application.

If an application is for the renewal of a sex establishment licence, the premises can continue to operate past the licence expiry date; provided that the renewal application has been submitted to the Authority before the licence expires

The holder of a licence may apply to the Authority to vary the terms, conditions or restrictions on or subject to which the licence is held.

### **6. Consultation procedures and Commenting on licence applications**

The police are a statutory consultee for all applications.

Residents and businesses may also make objections during the consultation process.

Objectors should limit their objection to matters which are relevant to the statutory grounds for refusal as set out in the Act. The grounds relevant to the majority of objectors are as follows:

- that the grant or renewal of the licence would be inappropriate, having regard to the character of the relevant locality or to the use to which any premises in the vicinity are put; or to the layout, character or condition of the premises, vehicle or vessel or stall in respect of which the application is made.

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

In addition to individuals, objectors can include residents'/tenants' associations, community associations and trade associations. Councillors and MPs may also raise objections. Councillors may represent interested parties, providing they do not also sit on the Licensing Committee.

The Authority will not consider objections that relate to moral grounds (as these are outside the scope of the Act). Where objections are rejected, the objector will be given written reasons.

Valid objections will be considered by the Licensing Committee at the hearing to consider the application and applicants will be given an opportunity to present their application to members.

## Statement of Licensing Policy for Sex Establishments

The Authority has a procedure to be followed during licensing hearings. Persons who have made a valid and relevant representation in respect of an application will be able to address the Committee when the application is being considered and may also ask questions of the applicant. A time limit per speaker may be set. Where a number of persons have requested to speak the Chair of the Committee may require a spokesperson to be elected.

Objections must be made in writing (email is acceptable) and should include the following:

- the name and address of the person or organisation making the objection
- the premises to which the objection relates
- the proximity of the premises to the person making the objection; a sketch map or plan may be helpful to show this
- the reasons for making the objections, which are clearly set out in relation to the grounds for refusal (as stated above).

Any Petitions received must clearly state the name and address of the premises application being objected to. The full objection that people are signing to say they agree with must be at the top of the petition. The objection must be in line with the requirements of the legislation (as detailed above). The names and addresses of those signing the petition should be provided and should be legible, together with a signature.

The Authority must be confident that those signing the petition were aware what they were signing for; so in the interest of clarity for those signing best practice would be to have the objection at the top of each page, especially where several people are involved in collecting signatures. The Committee will decide on the merits of the case what weight it will give to objections raised through petitions.

It should be noted that submissions to the Licensing Authority may also be in support of an application. These should also contain the same information as stated above.

The names and addresses of objectors will not be disclosed to applicants, or published in public reports, in accordance with Paragraph 10 (17) of Schedule 3 to the Act.

Details of applications and objections which are referred to the Licensing Committee for determination will be published in reports that are made publicly available in accordance with the Local Government Act 1972 and the Freedom of Information Act 2000. Certain items or information will therefore have to be excluded from the public domain as permitted by the Local Government Act 1972.

### **7. Determination of applications**

When considering applications, the Authority will have regard to:

- the Act
- any supporting regulations
- guidance issued by the Home Office
- this Statement of Licensing Policy



## Statement of Licensing Policy for Sex Establishments

- any objections made
- the Human Rights Act 1998
- any other relevant legislation or guidance

This does not, however, undermine the rights of any person to apply for a licence and have the application considered on its individual merits, nor does it override the right of any person to make objections on any application where they are permitted to do so under the Act.

When determining applications, the Authority will take account of any comments or representations made by:

- Norfolk Constabulary;
- Norwich City Council Environmental Protection Service
- The authority enforcing health & safety at the premises
- Norwich City Council Planning Services
- Norfolk Fire Service
- Norfolk Safeguarding Children Board
- Any other relevant authority

The Authority reserves the right to consult any other body that it considers appropriate.

Paragraph 12 (1)(a-e) of Schedule 3 of the Act prohibits the Authority from granting a licence:

- (a) to a person under the age of 18; or
- (b) to a person who is for the time being disqualified from holding a licence following revocation of such a licence; or
- (c) to a person, other than a body corporate, who is not resident in an EEA state or was not so resident throughout the period of 6 months immediately preceding the date when the application was made; or
- (d) to a body corporate which is not incorporated in an EEA state;
- (e) to a person who had, within a period of 12 months immediately preceding the date when the application was made, 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.

Applications which fall into this category will be deemed invalid applications. Please note there is no right of appeal against failure to grant a licence on these grounds.

Subject to the following paragraph, if the application is valid and no objections have been received and there are no other statutory grounds for refusal, the application will be granted by way of delegated authority.

In cases where objections have been received, or if there are concerns regarding the characteristics of the locality, or any other discretionary ground of refusal, including the application, if granted, leading to exceeding any maximum numbers of premises in a relevant locality, as detailed in section 4. of this policy, the application will be

## Statement of Licensing Policy for Sex Establishments

referred to the Licensing Committee for a hearing and determination of the application.

The Authority may, if they think fit, transfer a licence to any other person upon application by that person.

Each application will be decided upon its own merits. The Licensing Authority will not apply a rigid rule to its decision making.

The Authority will give clear reasons for its decisions.

The Authority will, unless there are exceptional reasons otherwise, grant licences for the maximum duration of one year to provide certainty to those operating businesses. The licence will remain in force for one year, or such shorter period specified in the licence, unless previously cancelled or revoked.

When issuing a Sex Establishment Licence the Authority is permitted to issue it on such terms and conditions and subject to restrictions as specified at the time the licence is issued. In addition to this the Licensing Authority has the power to make standard conditions applicable to all licences for sex establishments. The Authority may grant to any applicant or renew any licence for the use of any premises as a sex establishment on such terms and conditions as may be specified.

### 8. Conditions

The Authority will attach *standard conditions* (as specified in Appendices B-D. to this Policy document) to all sex establishment licences.

Additional conditions may be added in the following circumstances:

- When offered by the applicant as part of the application;
- Voluntary following recommendations made by any relevant Authority, Police etc;
- By the Licensing Committee following receipt of an objection and a hearing.

Applicants who wish to be exempt from the requirements of any of the *standard conditions* should state, with full reasons why they should be so exempted, when making an application.

It is an offence to breach the conditions and the penalty for this is a fine not exceeding £20,000.

### 9. Refusal of licences

Except where the Authority are prohibited from granting, renewing, varying or transferring a licence, the Authority will not refuse a licence without first:

- Notifying the applicant or holder of the licence in writing of the reasons;
- Giving the applicant (or holder) of the licence the opportunity of appearing and making representations before a Licensing Committee.

## Statement of Licensing Policy for Sex Establishments

As stated above, in accordance with Paragraph 12(1) of Schedule 3 to the Act the Authority **must refuse** to grant or transfer a licence in certain mandatory cases and these will be deemed invalid applications.

In accordance with Paragraph 12(2) of Schedule 3 to the Act the Authority **may refuse**:

- an application for grant or renewal of a licence on one or more of the grounds shown below;
- an application for transfer of a licence on either or both of the grounds shown at a and b below.

The grounds for refusal are:

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

### 10. Revocation of licence

The Authority is given jurisdiction to revoke a sex establishment licence by virtue of Schedule 3 paragraph 17(1) of the Act.

- on any of the mandatory grounds which are detailed in section 7 above
- or either of the grounds in respect of (a) or (b) detailed at section 9 above, namely that the licence holder is unsuitable or that the manager or beneficiary of the licence is unsuitable.

The Authority will not revoke a licence without first giving the holder of the licence the opportunity of appearing and making representations before a Licensing Committee. They may call a hearing, without requiring a third party to request such a hearing, and give the licence holder an opportunity to appear before them.

Should the Authority revoke a Sex Establishment licence then full reasons for the revocation will be provided to the licence holder within 7 days of the decision.

Revocation of a Sex Establishment licence would disqualify the licence holder from holding or obtaining another Sex Establishment licence in the Authority's area for a period of 12 months. However, this does not prevent the licence holder from holding a licence in another Licensing Authority's area.



## **11. Cancellation of licences**

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

In accordance with Paragraph 15 of Schedule 3 to the Act, in the event of the death of a licence-holder, the licence will be deemed to have been granted to his personal representatives and will remain in force for 3 months from the date of death, unless previously revoked. The representatives must comply with the conditions of the licence and should not be someone who would not normally be granted a licence in their own right

Where the Authority is satisfied that it is necessary for the purpose of winding up the estate of the deceased licence-holder, and that no other circumstances make it undesirable, it may extend or further extend the period in which the licence remains in force.

## **12. Right to appeal a decision**

If an application is refused, or licence revoked, following a hearing, then the applicant or licence holder will be informed of the decision and whether there is any right of appeal. Appeals must be made to the local magistrates' court within 21 days, starting from the date the applicant or licence holder is notified of the Authority's decision. It should be noted that a fee may be payable to the magistrates to lodge such an appeal. Applicants or licence holders can appeal against the refusal of a grant, renewal, variation or transfer application, or against the decision to revoke a licence. They can also appeal against conditions or restrictions imposed. Please note there is no appeal against the Authority's decision if the application was refused on the grounds that:

- the number of sex establishments, or of sex establishments of a particular kind, in the relevant locality at the time the application is determined is equal to or exceeds the number which the authority consider is appropriate for that locality; or
- that the grant or renewal of the licence would be inappropriate, having regard to the character of the relevant locality; or to the use to which any premises in the vicinity are put; or to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

The Magistrates' court will determine the appeal application. Applicants who do not agree with the decision made by the magistrates' court, can appeal to the local Crown court. The decision made by the Crown court will be final. The Authority must comply with a decision made by the Magistrates or Crown court.

## **13. Compliance Monitoring and enforcement**

The Authority will adopt an intelligence led and risk based approach to its monitoring and inspection regime. In general this will involve carrying out inspections of

premises no more than once a year unless exceptional circumstances require otherwise.

It is further recognised that Sexual Entertainment Venues are also regulated by other legislation due to the nature of those operations, and therefore may require more frequent inspection. However, it is anticipated that, wherever possible, consolidated enforcement inspections will be undertaken.

The Authority's approach to enforcement is set out in enforcement policies which are available on request.

Breach of conditions or legislative requirements may result in formal action being taken by the Authority which can include revocation of, or a decision not to renew, a licence. The Authority may also prosecute in respect of serious offences.

### **14. Exchange of Information**

The Authority may from time to time exercise its' powers under section 115 of the Crime and Disorder Act 1998 to exchange data and information with the police and other partners to fulfil its' statutory objective of reducing crime in the area.

### **15. Policy Evaluation and review**

The policy will be regularly reviewed and monitored by the Authority's officers to ensure that it reflects current legislation, is effective, up to date and achieving a responsible regulatory framework for Norwich.

This will be achieved by monitoring the outcome of hearings, appeals through the Magistrates courts, developments in legislation, by having regard to stated cases, local needs and economic impacts.

This Policy will be reviewed on a 5-yearly basis. Any proposed amendments to the Policy will be fully consulted upon, prior to re-adoption by the Authority.

## GLOSSARY, DEFINITIONS and BIBLIOGRAPHY

### Sex Shop

“(1) Any premises, vehicle, vessel or stall used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating –

- (a) sex articles; or
- (b) other things intended for use in connection with, or for the purpose of stimulating or encouraging –
  - (i) sexual activity; or
  - (ii) acts of force or restraint which are associated with sexual activity.

(2) No premises shall be treated as a sex shop by reason only of their use for the exhibition of moving pictures by whatever means produced.”

### Sex articles:

“(3) (a) anything made for use in connection with, or for the purpose of stimulating or encouraging –

- (i) sexual activity; or
  - (ii) acts of force or restraint which are associated with sexual activity;
- and

(b) anything to which sub-paragraph (4) below applies.

(4) This sub-paragraph applies –

(a) to any article containing or embodying matter to be read or looked at or anything intended to be used, either alone or as one of a set, for the reproduction or manufacture of any such article; and

(b) to any recording vision or sound, which –

- (i) is 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.”

### Sex Cinema

“(1) Any premises, vehicle, vessel or stall used to a significant degree for the exhibition of moving pictures, by whatever means produced, which –

(a) are concerned primarily with the portrayal of, or primarily deal with or relate to, or are intended to stimulate or encourage –

- (i) sexual activity; or
- (ii) acts of force or restraint which are associated with sexual activity; or

## Statement of Licensing Policy for Sex Establishments

(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 are licensed under Section 1 of the Cinemas Act 1985, of their use or purpose for which a licence under that section is required; 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 that Act.

### Sexual Entertainment Venue

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

(2) In this paragraph “relevant entertainment” means—

- (a) any live performance; or
- (b) any live display of nudity;

which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means).

(3) The following are not sexual entertainment venues for the purposes of this Schedule—

(a) sex cinemas and sex shops;

(b) premises at which the provision of relevant entertainment as mentioned in sub-paragraph (1) is such that, at the time in question and including any relevant entertainment which is being so provided at that time—

- (i) there have not been more than eleven occasions on which relevant entertainment has been so provided which fall (wholly or partly) within the period of 12 months ending with that time;
- (ii) no such occasion has lasted for more than 24 hours; and
- (iii) no such occasion has begun within the period of one month beginning with the end of any previous occasion on which relevant entertainment has been so provided (whether or not that previous occasion falls within the 12 month period mentioned in sub-paragraph (i));

(c) premises specified or described in an order made by the relevant national authority.

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

## Statement of Licensing Policy for Sex Establishments

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

(14) In this paragraph—

**“audience”** includes an audience of one;

**“display of nudity”** means—

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

**“the organiser”**, in relation to the provision of relevant entertainment at premises, means any person who is responsible for the organisation or management of—

- (a) the relevant entertainment; or
- (b) the premises;

**“premises”** includes any vessel, vehicle or stall but does not include any private dwelling to which the public is not admitted; and for the purposes of sub-paragraphs (1) and (2) it does not matter whether the financial gain arises directly or indirectly from the performance or display of nudity.”

### Significant Degree & Sex Articles

Licences for sex shops are required where 18R rated films are being sold, or where there is a “significant degree” of “sex articles”. It should be noted that in respect of Mail Order premises the Video Recordings Act 1984 states at section 7 (b) & (c) that no video recording that may only be viewed by persons aged 18 or over is to be supplied other than in a licensed sex shop. Case law precludes the sale of 18R rated films by Mail Order premises which holds a Sex Shop licence because the supply of the film to a person aged 18 or over cannot be confirmed; such supply would fail to ensure that the age controls are properly enforced.

The phrase “sex articles” is defined in the Act, but the phrase “a significant degree” is not. When considering whether or not a business is selling a significant degree of sex articles and needs a licence, the Authority will consider:

- (1) the ratio of sex articles to other aspects of the business
- (2) the absolute quantity of sales
- (3) the character of the remainder of the business
- (4) the nature of the displays in the business
- (5) turnover
- (6) other factors which appear to be materially relevant.

### Relevant entertainment

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

“Relevant entertainment” is defined in schedule 3 of the Act (as amended by section 27 of the Policing and Crime Act 2009) as “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 (whether by verbal or other means).” An audience can consist of just one person, e.g. in a private booth.

## **Nudity**

Section 27 of The Policing and Crime Act 2009 defines the “display of nudity” as:-

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

## **Form of Notice – Indecent Displays (Control) Act 1981 section 1(4)(e):**

The Authority’s Standard Conditions require that a warning notice be displayed in accordance with the above legislation. The legislation states:

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

### **“WARNING**

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

- (b) The word “WARNING” must appear as a heading.
- (c) No pictures or other matter shall appear on the notice.
- (d) The notice must be so situated that no one could reasonably gain access to the shop or part of the shop in question without being aware of the notice and it must be easily legible by any person gaining such access.

## **Bibliography and further guidance**

- Copies of Acts of Parliament and regulations can be viewed at [www.legislation.gov.uk](http://www.legislation.gov.uk)
- Home Office guidance issued in March 2010 entitled “Sexual Entertainment Venues – Guidance for England and Wales.”  
[http://www.licensingresource.co.uk/sites/all/files/sex/sev\\_guidance.pdf](http://www.licensingresource.co.uk/sites/all/files/sex/sev_guidance.pdf)
- Home Office guidance issued under section 182 of the Licensing Act 2003 in April 2018  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/705588/Revised\\_guidance\\_issued\\_under\\_section\\_182\\_of\\_the\\_Licensing\\_Act\\_2003\\_April\\_2018\\_.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/705588/Revised_guidance_issued_under_section_182_of_the_Licensing_Act_2003_April_2018_.pdf)

**APPENDIX A**

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

I/we

.....  
.....

hereby give notice that I/we have applied to Norwich City Council under the provisions of the Local Government (Miscellaneous Provisions) Act 1982 as amended for a licence to use the premises referred to below as a Sex Shop / Sex Cinema / Sexual Entertainment Venue\* as detailed below.

Proposed Licensed  
Name.....

Address of  
premises.....  
.....  
.....

Proposed hours of opening/operation  
.....  
.....  
.....  
.....

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

**Signed**.....**Date**.....

Notes:

1. Enter full details of the application on this form, including the name of the premises being requested as "the licensed name" and proposed opening hours, or hours of operation in the case of Mail Order Premises.
  2. Affix a copy of the completed Notice on the premises to which the application relates, in a prominent position that may be easily read by the public on the day of making application.
- You must ensure that this Notice remains in position for 21 days.
3. The content of this Notice, as completed, must be published in a local newspaper within 7 days of making the application.

\* Delete as applicable



## **APPENDIX B**

### **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982**

#### **STANDARD SEX ESTABLISHMENT LICENCE CONDITIONS RESTRICTIONS AND TERMS APPLICABLE TO SEX SHOPS AND SEX CINEMAS**

##### **Introduction**

1. In these Conditions "The Council" shall mean Norwich City Council and all enquiries concerning this licence shall be directed to the Licensing Team, Citywide Services, Norwich City Council, City Hall, St Peters Street Norwich NR2 1NH.

2. These conditions are imposed by the Council, pursuant to its powers under paragraph 13 (1) of Schedule 3 to the above Act, as terms, conditions and restrictions on a subject to which a licence is, in general, to be granted, renewed or transferred by the Council save, and insofar as, they do not conflict with the provisions of the Act itself.

3. These conditions are only applicable to "Sex Shop and Sex Cinema" premises.

##### **Management of the Premises**

4. The Licensee, or a responsible person over the age of 18 having been nominated by him and approved in writing by the Council for the purpose of managing the sex establishment ("the manager"), shall have personal responsibility for and be present on the Premises at all times when the Premises are open to the public.

5. Where the Licensee is a body corporate or an incorporated body, any change of director, company secretary or other person responsible for the management of the body shall be notified in writing to the Council within 14 days of such change and such written details as the licensing authority may require in respect of the change of personnel shall be furnished within 14 days of a request in writing from the Council.

6. A copy of the licence and any special conditions attached shall, at all times, be displayed in a conspicuous position on the Premises so as to be available for inspection by the police, the fire authority, and authorised officers of the Council.

7. The name of the person responsible for the management of the Premises, whether the Licensee or the manager, shall be displayed in a conspicuous position within the Premises throughout the period during which he is responsible for the conduct of the Premises.

8. The Licensee shall retain control over all areas of the Premises and shall not let, licence or surrender possession of any area. The Council must be immediately



## Statement of Licensing Policy for Sex Establishments

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

9. The Licensee shall ensure that the public is not admitted to any part of the Premises that has not been licensed, other than toilet facilities where provided for customers.

10. Neither the Licensee nor any employee or agent shall personally solicit custom for the sex establishment outside or in the locality of the premises.

11. The Licensee shall ensure that during the hours that the Premises are open for business every employee wears a badge of a type approved by the Council indicating their name and that they are an employee.

12. The Licensee shall maintain a daily register in which shall be recorded the name and address of any person who is to be responsible for managing the Sex Establishment in the Licensee's absence and the names and addresses of those employed in the Sex Establishment. The Register is to be completed each day within thirty minutes of the Sex Establishment being opened for business and is to be available for inspection by the police and by authorised officers of the Council.

13. The Licensee shall take all reasonable precautions for the safety of the public, employees and other persons working in the premises.

14. No person under the age of 18 shall be admitted to the Premises.

15. The Licensee shall adopt a procedure to check the age of customers entering the shop who appear to be younger than 25 in order to ensure that they are not under the age of 18.

16. All persons working in the premises shall be aged not less than 18 years. The Licensee must maintain adequate records of the names, addresses and dates of birth of persons working in the premises including adequate identity checks.

17. The Licensee shall ensure that a closed-circuit television system is installed internally and externally to the satisfaction of the Norfolk Constabulary. Appropriate notices must be displayed in accordance with the Data Protection Act 1998, advising that CCTV is in operation. In addition the Licensee must ensure that the requirement under that Act regarding registration with the Data Protection Commissioner is complied with.

18. The Licensee shall provide upon request copies of any documents reasonably required by an authorised officer of the Council in relation to compliance with this Licence.

### Opening of the Premises

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

## Statement of Licensing Policy for Sex Establishments

Monday – Saturday 9:30 am – 6:00 pm

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

### Operation of the Premises

21. Approval from the Council is required for changes from:

- a sex shop (including a mail-order shop) to either a sex cinema or sexual entertainment venue
- sex cinema to either a sex shop or sexual entertainment venue
- a sexual entertainment venue to either a sex cinema or a sex shop.

This will require consideration of an appropriate application.

22. No sex articles or other items 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 used, displayed, sold, hired, exchanged, loaned or demonstrated in a sex cinema or a sexual entertainment venue.

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

### External Appearance

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

25. The exterior design of the premises shall be such that the interior of the premises is not visible to passers-by.

26. The windows and openings of the Premises shall be of a material or covered with a material, which will ensure the interior of the Premises is not visible to passers-by.

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

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

- (i) The licensed name of the premises may be displayed, unless the Council determines that the name is of a profane or sexual nature or gives other cause for concern.
- (ii) The form of warning notice required to be displayed by virtue of the provisions of Section 1(6) of the Indecent Displays (Control) Act 1981.

## Statement of Licensing Policy for Sex Establishments

- (iii) A notice stating the opening hours of the establishment.
- (iv) The wording "PRIVATE SHOP" or "ADULT SHOP" but no other indication as to the nature of the business carried on at the licensed premises.

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

In the case of the permitted items at paragraph 24 'i', 'ii' and 'iv' the lettering used shall not exceed 15 cm (approximately 6" inches) in height for each letter.

- 30. (a) No other words or signs, or any displays or advertisements, shall be displayed on the outside of the Premises or in the vicinity of the Premises, or otherwise approved by the Council in writing;
- (b) No external loudspeakers may be installed.

### State, Condition and Layout of the Premises

31. Notwithstanding the Licensee's duties under the Health and Safety at Work etc Act 1974 and related legislation and his obligations under any lease or other agreement for the use of the Premises, he/she shall maintain the Premises in good repair and condition.

32. External doors shall be closed at all times other than when persons are entering or leaving the Premises. The external doors shall be fitted with a device to ensure their automatic closure and such devices shall be maintained in good working order.

33. The Premises shall be fitted with an inner entrance door or screen so that no part of the interior of the Premises or any of the contents of the premises shall be visible when persons are entering or leaving the Premises. Such inner entrance door or screen shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.

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

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

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

37. No previewing of films, video recordings or other similar material shall be allowed to be shown in the premises. *(N.B. This condition only relates to Sex Shops.)*

38. No fastenings of any description shall be fitted upon any booth or cubicle within the Sex Establishment nor shall more than one person (including any employee be present in any such booth or cubicle at any time). Appropriate fastenings are permitted on toilet doors.

## Statement of Licensing Policy for Sex Establishments

### Goods Available in Sex Establishments

39. All Sex Articles as defined in Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 and other things displayed for sale, hire, exchange or loan within the shop shall be clearly marked to show to persons who are inside the Sex Shop the respective prices being charged.

40. All printed matter, DVD, video and other formats capable of storing readable/viewable material offered for sale, hire, exchange or loan shall be openly displayed and available for inspection prior to purchase and a notice to this effect is to be prominently displayed inside the Sex Establishment. (This regulation does not require that films or video films be exhibited (played) to customers).

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

42. In accordance with section 7 (b) & (c) of the Video Recordings Act 1984 and case law no 18R rated films may be sold or supplied by Mail Order.  
Information for Customers

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

### Licensed Name

44. (a) The Council at the time of granting the licence in respect of the premises shall appoint a name referred to as "The Licensed Name" by which it is intended that the premises shall be known and the licence holder shall ensure that the premises are known solely by that name and by no other, save as provided for by paragraph (b) below. Such name shall have been provided on the application form.

(b) An application in respect of a change of licence name shall be made to the Council in writing not less than 28 days prior to the proposed change and the Council shall have an absolute and unfettered discretion to allow or refuse such change.

## **APPENDIX C**

### **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982**

#### **STANDARD SEX ESTABLISHMENT LICENCE CONDITIONS RESTRICTIONS AND TERMS APPLICABLE TO MAIL-ORDER PREMISES**

##### **INTRODUCTION**

1. In these Conditions “The Council” shall mean the Norwich City Council and all enquiries concerning this licence shall be directed to the Licensing Team, Citywide Services, Norwich City Council, City Hall, St Peters Street Norwich NR2 1NH.

2. These conditions are imposed by the Council, pursuant to its powers under paragraph 13 (1) of Schedule 3 to the above Act, as terms, conditions and restrictions on a subject to which a licence is, in general, to be granted, renewed or transferred by the Council save, and insofar as, they do not conflict with the provisions of the Act itself.

3. These conditions are only applicable to a “Mail-Order Sex Shop” premises.

##### **Management of the Premises**

4. The Licensee, or a responsible person over the age of 18 having been nominated by him and approved in writing by the Council for the purpose of managing the sex establishment (“the manager”), shall have personal responsibility for and be present on the Premises at all times when the Premises are open to the public.

5. Where the Licensee is a body corporate or an incorporated body, any change of director, company secretary or other person responsible for the management of the body shall be notified in writing to the Council within 14 days of such change. Such written details as the licensing authority may require in respect of the change of personnel shall be furnished within 14 days of a request in writing from the Council.

6. A copy of the licence and any special conditions attached shall, at all times, be displayed in a conspicuous position on the Premises so as to be available for inspection by the police, the fire authority, and authorised officers of the Council.

7. The name of the person responsible for the management of the Premises, whether the Licensee or the manager, shall be displayed in a conspicuous position within the Premises throughout the period during which he is responsible for the conduct of the Premises.

8. The Licensee shall retain control over all areas of the Premises and shall not let, licence or surrender possession of any area. The Council must be immediately

## Statement of Licensing Policy for Sex Establishments

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

9. The Licensee shall ensure that the public is not admitted to any part of the Premises. No person under the age of 18 years will be admitted to the premises at any time, for whatever reason or purpose.

10. All persons working in the premises shall be aged not less than 18 years. The Licensee must maintain adequate records of the names, addresses and dates of birth of persons working in the premises including adequate identity checks.

11. Neither the Licensee nor any employee or agent shall personally solicit custom for the sex establishment outside or in the locality of the Premises.

12. The Licensee shall maintain a daily register in which shall be recorded the name and address of any person who is to be responsible for managing the Sex Establishment in the Licensee's absence and the names and addresses of those employed in the Sex Establishment. The Register is to be completed each day within thirty minutes of the Sex Establishment being opened for business and is to be available for inspection by the police and by authorised officers of the Council.

13 The Licensee shall take all reasonable precautions for the safety of employees.

14. The Licensee shall provide upon request copies of any documents reasonably required by an authorised officer of the Council in relation to compliance with this Licence.

### Operation of the Premises

15. Approval from the Council is required for changes from:

- a sex shop (including a mail-order shop) to either a sex cinema or sexual entertainment venue
- sex cinema to either a sex shop or sexual entertainment venue
- a sexual entertainment venue to either a sex cinema or a sex shop.

This will require consideration of an appropriate application.

16. No sex articles or other items 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 used, displayed, sold, hired, exchanged, loaned or demonstrated in a Mail order sex shop premises.

17. The sex establishment shall be used exclusively for 'mail-order' purposes only, selling sex articles and other articles that do not fall within the definition of sex articles in Schedule 3, paragraph 4(3) of the Local Government (Miscellaneous Provisions) Act 1982.

18. All advertisements, catalogues, sales documents used in connection with the business intended or likely to be seen by customers will clearly and prominently state

## Statement of Licensing Policy for Sex Establishments

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

### External Appearance

19. No external nameplate, advertisement board or any other written or pictorial or graphic display connected with the business shall be observable from outside the building, or from other units within the building or from the common parts of the building.

20. The exterior design of the premises shall be such that the interior of the premises is not visible to passers-by.

21. The windows and openings of the Premises shall be of a material or covered with a material, which will ensure the interior of the Premises is not visible to passers-by.

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

### State, Condition and Layout of the Premises

23. Notwithstanding the Licensee's duties under the Health and Safety at Work etc Act 1974 and related legislation and his obligations under any lease or other agreement for the use of the Premises, he/she shall maintain the Premises in good repair and condition.

24. External doors shall be closed at all times other than when persons are entering or leaving the Premises. The external doors shall be fitted with a device to ensure their automatic closure and such devices shall be maintained in good working order.

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

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

### Goods Available in Sex Establishments

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

28. In accordance with section 7 (b) & (c) of the Video Recordings Act 1984 and case law no 18R rated films may be sold or supplied by Mail Order premises (even one which holds a Sex Shop licence).

### Licensed Name



## Statement of Licensing Policy for Sex Establishments

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

Draft 18.11.2019



## **APPENDIX D**

### **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982**

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

##### **INTRODUCTION**

1. In these Conditions “The Council” shall mean the Norwich City Council and all enquiries concerning this licence shall be directed to the Licensing Team, Citywide Services, Norwich City Council, City Hall, St Peters Street Norwich NR2 1NH.
2. These conditions are imposed by the Council, pursuant to its powers under paragraph 13 (1) of Schedule 3 to the above Act, as terms, conditions and restrictions on a subject to which a licence is, in general, to be granted, renewed or transferred by the Council save, and insofar as, they do not conflict with the provisions of the Act itself.
3. These conditions are only applicable to a “Sexual Entertainment Venue” premises.

##### **Management of the Premises**

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

## Statement of Licensing Policy for Sex Establishments

9. The Licensee shall ensure that the public is not admitted to any part of the Premises that has not been licensed, other than toilet facilities where provided for customers.
10. Neither the Licensee nor any employee or agent shall personally solicit custom for the sex establishment outside or in the locality of the Premises.
11. The Licensee shall maintain a daily register in which shall be recorded the name and address of any person who is to be responsible for managing the Sex Establishment in the Licensee's absence and the names and addresses of those employed in the Sex Establishment. The Register is to be completed each day within thirty minutes of the Sex Establishment being opened for business and is to be available for inspection by the police and by authorised officers of the Council.
12. The Licensee shall take all reasonable precautions for the safety of the public, employees and other persons working in the premises.
13. The Licensee must ensure that a suitable and sufficient number of trained staff are employed to supervise the interior of the Premises ("floor supervisors") to ensure that conditions of licence are complied with, in particular the no touching conditions, and to ensure the safety of performers.
14. The Licensee shall ensure welfare training is provided to a designated person responsible for the welfare of the dancers, to include safeguarding, health and safety and wellbeing.
15. No person under the age of 18 shall be admitted to the Premises.
16. The Licensee shall adopt a procedure to check the age of customers entering the premises who appear to be younger than 25 in order to ensure that they are not under the age of 18.
17. All persons working in the premises, including Performers, shall be aged not less than 18 years. The Licensee must maintain adequate records of the names, addresses and dates of birth of performers including adequate identity checks.
18. The Licensee must submit a set of "House Rules" to the Licensing Authority as part of the application process; these rules will form part of the licence, and must be complied with. Furthermore they must ensure that all performers are fully conversant with and sign an agreement to adhere to such House Rules.
19. In the event that an authorisation under the Licensing Act 2003 does not require the provision of a CCTV system, then the Licensee shall ensure a closed-circuit television system is installed internally and externally to the satisfaction of the Norfolk Constabulary. Appropriate notices must be displayed in accordance with the Data Protection Act 1998, advising that CCTV is in operation. In addition the Licensee must ensure that the requirement under that Act regarding registration with the Data Protection Commissioner is complied with.
20. CCTV recordings will be made available for viewing by authorised

## Statement of Licensing Policy for Sex Establishments

Officers of the licensing authority or the police. Copies of such recordings must be kept for a period of 31 days and be provided upon request.

21. CCTV must be capable of monitoring the whole of the premises, in particular any private booths or rooms to ensure the safety and security of performers and other persons within the premises. The CCTV system must be monitored at all times that the premises are in operation.

22. The Licensee shall ensure that neither they nor any person promoting or providing entertainment on the Premises (nor any person acting on behalf of any such person) shall display advertisements promoting the entertainment or the Premises in any unlawful manner.

23. Where the Council have given notice in writing to the Licensee objecting to an advertisement on the grounds that, if displayed, it would offend against good taste or decency or be likely to encourage or incite to crime or to lead to disorder or to be offensive to public feeling, that advertisement shall not be displayed.

24. The Council may specify, in writing, the number of members of the public that shall be present on the Premises at any time whilst relevant entertainment takes place, on the grounds of public safety, public nuisance or crime and disorder. The Licensee shall ensure that the number specified is not exceeded at any time.

25. The Licensee shall provide upon request copies of any documents reasonably required by an authorised officer of the Council in relation to compliance with this Licence.

26. The Licensee shall provide adequate non-public changing rooms for performers.

### Opening of the Premises

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

### Operation of the Premises

28. Approval from the Council is required for changes from:

- a sex shop (including a mail-order shop) to either a sex cinema or sexual entertainment venue
- sex cinema to either a sex shop or sexual entertainment venue
- a sexual entertainment venue to either a sex cinema or a sex shop.

This will require consideration of an appropriate application.

29. No sex articles or other items 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 used, displayed, sold, hired,

## Statement of Licensing Policy for Sex Establishments

exchanged, loaned or demonstrated in a sexual entertainment venue or a sex cinema.

### External Appearance

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

31. The exterior design of the premises shall be such that the interior of the premises is not visible to passers-by.

32. The windows and openings of the Premises shall be of a material or covered with a material, which will ensure the interior of the Premises is not visible to passers-by. At no time shall performers or persons working in the premises be visible from outside of the Premises, with the exclusion of Door Supervisors.

33. The Licensee shall not permit the display outside of the Premises of photographs or other images which indicate or suggest that relevant entertainment takes place on the Premises.

34. External advertising of relevant entertainment shall not include any of the following:

- a) any depiction of full nudity
- b) any depiction of partial nudity (including the display of breasts, buttocks or genitalia)
- c) any depiction of overtly sexual or violent images or any other images which may give rise to concerns in respect of public decency or protection of children or vulnerable persons from harm.

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

- (i) The licensed name of the premises may be displayed, unless the Council determines that the name is of a profane or sexual nature or gives other cause for concern.
- (ii) The form of warning notice required to be displayed by virtue of the provisions of Section 1(6) of the Indecent Displays (Control) Act 1981.
- (iii) A notice stating the opening hours of the establishment.

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

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

37. (a) No other words or signs, or any displays or advertisements, shall be displayed on the outside of the Premises or in the vicinity of the Premises unless approved by the Council in writing;

## Statement of Licensing Policy for Sex Establishments

- (b) No external loudspeakers may be installed.

### State, Condition and Layout of the Premises

38. Notwithstanding the Licensee's duties under the Health and Safety at Work etc Act 1974 and related legislation and his obligations under any lease or other agreement for the use of the Premises, he/she shall maintain the Premises in good repair and condition.

39. External doors shall be closed at all times other than when persons are entering or leaving the Premises or unless there is an internal lobby with doors preventing the inside of the premises being viewed externally. The external doors shall be fitted with a device to ensure their automatic closure and such devices shall be maintained in good working order.

40. The Premises shall be fitted with an inner entrance door or screen so that no part of the interior of the Premises or any of the contents of the premises shall be visible when persons are entering or leaving the Premises. Such inner entrance door or screen shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.

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

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

43. Alterations or additions, either internal or external, or any proposed amendments to licence conditions shall not be made to the premises without prior written consent from the Council. An application will be required in order for consent to be considered, which will be considered by the council's Licensing Committee.

44. All booths, cubicles or VIP areas used for private dances must be visible to supervision and must not have closing doors, curtains or coverings of any description.

45. All booths, cubicles and VIP areas used for private dances must be directly supervised by either an SIA registered door supervisor, or a member of staff who has direct contact with SIA registered door supervisors working on the premises at all times the booths/cubicles/VIP areas are in use. Direct supervision does not include remote supervision by CCTV.

### Provision of Relevant Entertainment

46. Live music or the playing of recorded music, which is integral to the provision of relevant entertainment, will be subject to the same conditions contained in any authorisation under the Licensing Act 2003 in respect of live or recorded music. The only exception to this is where a specific condition on the licence requires otherwise.

## Statement of Licensing Policy for Sex Establishments

47. Performers shall only perform in specified designated areas, to seated customers or in such other areas of the licensed Premises as may be agreed in writing with the Council.

48. The Licensee is to implement a policy to ensure the safety of the Performers when they leave the Premises after a period of work.

49. Performers must remain clothed in public areas and all other areas except while performing in areas specified by the Council as being where relevant entertainment may be provided.

50. At the conclusion of performances all articles of clothing removed during that performance must be put back on. This does not prevent performers going to their non-public changing area to change their attire.

51. Performers may not accept any telephone number, email address, address or contact information from any customer.

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

53. Performers must not perform a nude table dance unless in a supervised area.

54. Performers are never to be in the company of a customer except in an area open to the public within the Premises (this excludes the toilets as performers must not use the public toilets whilst open to the public).

55. The Licensee must ensure that during the performance of a table or lap dance:

- (1) Customers must be seated in an upright position against the back of the booth or seat with their hands by their sides before a dancer can start a table dance;
- (2) Customers must remain seated during the entire performance of the dance;
- (3) For the purpose of restraint only, Performers may only touch a customer above the customer's chest (excluding the head) with their hands only;
- (4) Performers must not sit on or straddle the customer;
- (5) Performers must not place their feet on the seats.

56. The Licensee must ensure that during performances of relevant entertainment:

- (1) Performers may not perform any act that clearly simulates any sexual act;
- (2) Performers must never intentionally touch the genitals, anus or breasts of another dancer or to knowingly permit another dancer to intentionally touch their genitals, anus or breasts;
- (3) Performers may not intentionally touch a customer any time during the performance unless absolutely accidentally or due to a third party;
- (4) Performers may not use inappropriate, suggestive or sexually graphic language at any time;



## Statement of Licensing Policy for Sex Establishments

(5) Performers must not engage in communications that could be deemed as acts of prostitution or solicitation, even if the Performer has no intention of carrying out the act;

(6) Performers must only perform nude or semi-nude dancing (of any description) within areas specified by the Council.

57. The Licensee must ensure that during performances of relevant entertainment:

(1) Customers may not dance at any time except in areas specifically designated by the Council as being separate from areas for sexual entertainment.

(2) Customers must remain appropriately clothed at all times.

58. At all times there must be no physical contact between customers and employees, or other persons working within the premises, in any part of the premises save for the following:-

- The payment of an entry fee by customers to authorised members of staff.
- The payment of a fee for relevant entertainment.
- The purchasing of drinks by customers from authorised members of staff.
- The placing of bank notes by the customer in a garter worn by females or an armband worn by males.
- SIA door staff in the execution of their duties.

59. Relevant entertainment will only take place in specified designated areas within the premises, as identified on the plan attached to the licence.

60. Notices outlining condition 57 will be clearly displayed at each entrance to the premises and in the specified designated areas. Notices must state that no touching relates to customers touching performers and other persons working within the premises and vice versa.

61. Performers will stop immediately and move away from any customer who is offensive or attempts to touch them, and shall report such behaviour and any other inappropriate behaviour or breach of house rules to the management. If after receiving a warning a customer continues to behave inappropriately, the customer must be requested to leave the premises and should be escorted from the premises by appropriately authorised staff only (i.e. SIA registered door supervisors).

### Licensed Name

62. (a) The Council at the time of granting the licence in respect of the premises shall appoint a name referred to as "The Licensed Name" by which it is intended that the premises shall be known and the licence holder shall ensure that the premises are known solely by that name and by no other, save as provided for by paragraph (b) below. Such name shall have been provided on the application form.

(b) An application in respect of a change of licence name shall be made to the Council in writing not less than 28 days prior to the proposed change and the

## Statement of Licensing Policy for Sex Establishments

Council shall have an absolute and unfettered discretion to allow or refuse such change.

Draft 18.11.2019