

# Sex Establishment Policy

Incorporating Sexual Entertainment Venues, Sex Shops and Sex Cinemas

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DRAFT

## Licensing

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## 1. Purpose Statement

- 1.1 This document sets out BCP Councils policy regarding the regulation of sex shop, sex cinemas and sexual entertainment venue licensing.
- 1.2 The Policy provides advice to applicants about the procedure and approach to take when making an application and aims to ensure that sex establishments in the BCP Council area operate in a safe, fair and discreet manner and are sensitive to the local area in which they are situated.
- 1.3 The policy is prepared under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.
- 1.4 Section 27 of The Policing and Crime Act 2009 amended the Local Government (Miscellaneous Provisions) Act 1982 to introduce a new classification of sex establishment, namely sexual entertainment venues.
- 1.5 BCP Council approved the policy relating to sex establishments on xx-xx-xxxx and delegated its statutory functions in full to the Licensing Committee and Licensing Sub-Committee as directed.
- 1.6 BCP Council does not take a moral stand in adopting this policy; it recognises 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. BCP Council will, as a licensing authority, administer the licensing regime in accordance with the law.

## 2. Who the policy applies to

- 2.1 BCP Council has adopted the amended provisions of Schedule 3 to regulate the number of sexual entertainment venues and address any local concerns about this kind of entertainment. Section 27 enables the BCP Licensing Authority to consider a wide range of community interests in determining whether to grant a licence and to manage more effectively those premises that are licensed.
- 2.2 BCP Licensing Authority expects the manager, owner or other person who is responsible for the organisation or management of the sexual entertainment, or the premises, to manage and regulate the operation of such entertainment and venues properly.

## 3. This policy replaces

- 3.1 This policy replaces the previous Sex Establishment Policies that covered Bournemouth Borough Council and The Borough of Poole.

## 4. Approval process

- 4.1 BCP Council as Licensing Authority delegated the Licensing Committee to oversee the development and review of its Sex Establishment Policy. Once finalised the policy was presented to the Full Council for adoption.
- 4.2 The Sex Establishment Policy will be kept under review and the Licensing Committee may make any revisions to it as it considers appropriate. A full review will be carried out every 5 years.

## **5. Links to Council Strategies**

- 5.1 This policy supports the BCP Council Core Strategies.
- 5.2 During the preparation of this policy document due consideration has been given to the following Key Council Strategies:
- Corporate Strategy and Delivery Plan
  - Digital Strategy
  - Health & Wellbeing Strategy
  - Safeguarding Strategy
  - Communities Engagement Strategy
  - Crime & Disorder Reduction Strategy
  - Equality & Diversity

## **6. Background information**

- 6.1 BCP Council area includes the Bournemouth, Christchurch and Poole area, is located in Dorset on the Jurassic Coast. It is the 12th largest council in England with a population of approximately 400,000 residents. It is predominantly urban with associated suburban areas and open spaces, parks and gardens.
- 6.2 It has long established road and rail links to London, the Midlands and the South West and benefits from an international airport. It has three Universities, an innovative and business focused college and business strengths in the creative, digital, finance, aerospace, marine and environmental technology sectors.
- 6.3 It is one of the country's main holiday destinations and benefits from 15 miles of coastline with world recognised Blue Flag beaches. It is renowned for its water sports, historic quays, music and arts festivals and its annual air festival which attracts over a million people a year to the event.
- 6.4 The area offers a vibrant mix of entertainment facilities for residents and visitors alike with established theatres, restaurants, cinemas, concert venues, museums and historic sites. The entertainment economy is well served with a wide variety of restaurants, pubs, bars and clubs.

## **7. Policy Consultation**

- 7.1 In preparing this policy BCP Licensing Authority has consulted with and considered the views of the following range of people and organisations and has regard to the guidance issued by the Home Office.
- 7.2 Consultation on this policy took place with:
- the Chief Constable of Dorset Police
  - one or more persons who appear to BCP Council to represent the interests of persons carrying on or proposing to carry on the business of a sex establishment in the Council area
  - one or more persons who appear to BCP Council to represent the interests of persons to be employed either as performers or otherwise in the business of a sex establishment in the Council area
  - one or more persons who appear to BCP Council to represent the interests of persons likely to be affected by or otherwise have an interest in the policy,

including the Planning Authority, Fire and Rescue Authority, Community Safety, Dorset Public Health, Environmental Protection and Child Protection

- interested parties such as resident associations, trade associations and others as considered appropriate
- town and parish councils

## 8. Definitions

8.1 For the purposes of this policy, the following definitions will apply, provided that any subsequent amendments to the 1982 Act will also be taken into account:

Term	Definition
<b>The 1982 Act</b>	Refers to the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009.
<b>The Policy</b>	Refers to the BCP Council Sex Establishments Policy
<b>Authorised officer</b>	An officer employed by BCP Council and authorised by the council to act in accordance with provisions of the Local Government (Miscellaneous Provisions) Act 1982 as amended.
<b>The premises</b>	The premises, vehicle, vessel or stall that are the subject of the sex establishment licence or of the application for a sex establishment licence.
<b>Sex cinema</b>	Any premises, vehicle, vessel or stall used to a significant degree for the exhibition of moving pictures related to, or intended to stimulate or encourage, sexual activity, acts of force or restraint associated with sexual activity, or concerned primarily with the portrayal of or primarily deal with, or relate to, genital organs or excretory or urinary functions, but does not include a dwelling house to which the public is not admitted.
<b>Sex shop</b>	Any premises, vehicle, vessel or stall used for a business consisting to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating: sex articles; or other things intended for use in connection with, or for the purpose of stimulating or encouraging— <ul style="list-style-type: none"> <li>• sexual activity; or</li> <li>• acts of force or restraint which are associated with sexual activity.</li> </ul>
<b>Sex articles</b>	Include written or visual material such as sex magazines, books, or visual or audio recordings concerned with the portrayal of, or primarily deal with or relate to, or are intended to stimulate or encourage, sexual activity or acts of force and restraint associated with sexual activity, or which are concerned primarily with the portrayal of, or primarily deal with or relate to, genital organs or urinary or excretory functions.
<b>Sexual entertainment premises</b>	Fall into one of three categories: <ul style="list-style-type: none"> <li>• Sexual entertainment venues</li> <li>• sex shops</li> <li>• sex cinemas</li> </ul>

Term	Definition
<b>Sexual entertainment venue</b>	<p>Is defined in Paragraph 2A of Schedule 3 (as inserted by section 27) as ‘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 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. The category ‘sexual entertainment venues’ includes the following forms of entertainment as they are commonly understood:</p> <ul style="list-style-type: none"> <li>• lap dancing;</li> <li>• pole dancing;</li> <li>• table dancing;</li> <li>• strip shows</li> <li>• peep shows;</li> <li>• live sex shows;</li> </ul> <p>This entertainment is defined as ‘relevant entertainment’</p>
<b>Relevant entertainment</b>	<p>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. Where the entertainment takes place in private booths).</p>
<b>Display of nudity</b>	<p>In the case of a woman, exposure of her nipples, pubic area, genitals or anus; and in the case of a man, exposure of his pubic area, genitals or anus.</p>
<b>The organiser</b>	<p>Any person involved in the organisation or management of relevant entertainment.</p>
<b>Advertisement</b>	<p>Any word, letter, image, model, sign, placard, board, notice, device or representation, whether illuminated or not, in the nature of and employed wholly or partly for the purposes of, advertisement or announcement.</p>
<b>Entertainer</b>	<p>Dancer, performer or other such person employed, or otherwise, to provide relevant entertainment</p>
<b>Licence</b>	<p>Any sex establishment licence that the council can grant under the 1982 Act.</p>
<b>Licence holder</b>	<p>The holder of a sex establishment licence</p>
<b>Licensed area</b>	<p>The part of the premises marked on the plan where licensable activities are to take place</p>
<b>Responsible person</b>	<p>The person nominated by the licence holder who has personal responsibility for and be present on the premises whilst the premises are open to the public. This may be the manager or the relief manager.</p>

## 9. Other relevant legislation

- 9.1 In determining a licensing application the overriding principle will be that each application will be determined on its own merit, taking into account local knowledge, this Policy and the guidance issued by the Home Office (Include link to website). Where it is necessary to depart from the guidance or this Policy the BCP Licensing Authority council will give clear reasons for doing so.
- 9.2 BCP Licensing Authority recognises the need to avoid so far as possible duplication with other regulatory regimes. The granting of a Sex Establishment Licence does not infringe or impact on the requirement of Licensees to comply with other relevant legislation.
- 9.3 The role of the Licensing Authority under the 1982 Act is to maintain a balance between the needs of the sexual entertainment industry and the needs of residents and others within of the Council area.

9.4	<b>European Convention on Human Rights</b>	<p>The Human Rights Act 1998, incorporates the European Convention on Human Rights, and makes it unlawful for a local authority to act in a way which is incompatible with a Convention right. BCP Licensing Authority will have particular regard to the following relevant provisions of the European Convention on Human Rights: -</p> <ul style="list-style-type: none"> <li>• Article 6 that in the determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law;</li> <li>• Article 8 that everyone has the right to respect for his or her home and private life, including, for example, the right to a “good night’s sleep”;</li> <li>• Article 1 of the first protocol that every person is entitled to the peaceful enjoyment of his or her possessions. It should be noted that the Courts have held that a licence is a person’s possession;</li> <li>• Article 10 the right to freedom of expression.</li> </ul>
9.5	<b>The Provision of Services Regulations</b>	<p>The Provision of Services Regulations 2009 implements the European Services Directive. These regulations ensure that any refusal of a licence is:</p> <ul style="list-style-type: none"> <li>• non-discriminatory in regard to nationality</li> <li>• necessary for reasons of public policy, public security, public health or the protection of the environment and</li> <li>• proportionate with regard to the objective pursued by the legislation.</li> </ul> <p>BCP Licensing Authority will consider these three issues in relation to the refusal of licence applications.</p>
9.6	<b>Crime and Disorder Act 1998</b>	<p>The Crime and Disorder Act 1998 places a duty on the Council to exercise its functions with due regard to:</p> <ul style="list-style-type: none"> <li>• crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment)</li> <li>• the misuse of drugs, alcohol and other substances</li> <li>• re-offending in its area.</li> </ul>

		BCP Licensing Authority will have particular regard to the likely effect of the determination of licence applications on these issues and the need to do all that is reasonable to prevent them
9.7	<b>Equality Act 2010</b>	<p>The Equality Act 2010 provides protection from discrimination in respect of certain protected characteristics, namely: age, disability, gender reassignment, pregnancy and maternity, race, religion or beliefs and sex and sexual orientation. It places the Council under a legal duty to have due regard to the advancement of equality in the exercise of its powers, including licensing functions. BCP Licensing Authority will be mindful of this duty when determining all licensing applications, in due regard will be given to the need to:</p> <ul style="list-style-type: none"> <li>• eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010</li> <li>• advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it</li> <li>• foster good relations between persons who share a relevant protected characteristic and persons who do not share it</li> </ul>
9.8	<b>Planning</b>	<p>The use of premises is subject to planning control. Such use will require planning permission or must otherwise be lawful under planning legislation.</p> <p><b>9.9</b> In general, all premises which are the subject of an application, should have the benefit of planning permission, or be deemed permitted development. The onus will be on the applicant to demonstrate that planning permission has been granted or that the premises have the benefit of permitted development rights. Failure to do so may result in objections and the licence being refused or granted subject to conditions which take account of the planning permissions in existence.</p> <p><b>9.10</b> In addition, all new developments and premises which have been subject to structural alterations since 1994 should have building control approval in the form of a Building Regulations Completion Certificate. The onus will be on the applicant to demonstrate that any structural alterations have been approved by building control. Failure to do so may result in objections and the licence being refused or granted subject to conditions.</p> <p><b>9.11</b> Any decision on a licence application will not consider whether any decision to grant or refuse planning permission or building consent was lawful and correct</p>
9.12	<b>Modern Slavery Act 2015</b>	<p>The Modern Slavery Act 2015 puts a duty on the Council to notify the secretary of state, or where stated in regulations, another public authority, where there are reasonable grounds to believe that a person may be the victim of slavery or human trafficking.</p> <p><b>9.13</b> BCP Licensing Authority will where incidence of slavery or human trafficking are found to be related to a sexual entertainment licensed premise will have particular regard to the severity of the offence when determining a licence application or request for the revocation of such licence.</p>



## 10. Existing Licenced Premises

- 10.1 It is acknowledged that there are currently three licenced Sexual Entertainment Venues within the Old Christchurch Road and Yelverton Road areas of Bournemouth Town Centre. These are *For Your Eyes Only*, *Wiggle* and *Spearmint Rhino* and that these venues have been licenced for a number of years.
- 10.2 There are also currently three licenced Sex Shops in the Bournemouth area, two on Holdenhurst Road and one in the Triangle.
- 10.3 The locations of these existing venues had previously been determined by Bournemouth Borough Council as appropriate for this number of venues. However the character of the locality in which some of these venues are situated has changed in more recent years and more residential and student accommodation is available. Any new applications will be considered in accordance with section 11 of this policy - Character and locality of licensed premises
- 10.4 It has been determined that these existing licences will continue to be renewed, on application, by the existing operators during the lifetime of this policy. If there are any objections to an application it will be considered by the Licensing Committee in accordance with the relevant statute. This essentially provides grandfather rights to these existing operators for the current time.

## 11. Character and locality of licensed premises

- 11.1 BCP Licensing 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. However, BCP Licensing Authority are aware of the necessity to balance the needs of the community against the amenities of the local area.
- 11.2 Notwithstanding 10.1 above, while the BCP Licensing Authority have not imposed a limit on the number of premises that may be licensed in any area, and whilst treating each application on its own merits, BCP Licensing Authority will, with each application, consider the character of the locality and consider whether the grant of the application would be inappropriate having regard to its proximity to:
- Residential premises
  - Premises which are sensitive because they are frequented by children, young persons or families including, but not limited to educational establishments, nurseries, playgroups, playgrounds, youth clubs and youth hostels
  - Shops used by or directed at families or children
  - Premises sensitive for religious purposes for example, churches, mosques and temples
  - Places and/or buildings of historical/cultural interest and tourist attractions
  - Cultural facilities such as museums, theatres and cinemas
  - Public leisure facilities such as leisure centres, parks and open spaces
  - Community buildings such as community centres, libraries and drop in centres
  - Places used by vulnerable persons such as day centres, hostels and other adult social care facilities
  - Hospitals and other medical facilities
  - The number, type and concentration of other sex establishments already licenced within the locality.

- 11.3 It is not considered appropriate to define a precise distance from any of the above premises as sufficiently far enough away to make a sex establishment suitable and each case will be considered on its own merits and in light of any consultation undertaken.
- 11.4 BCP Licensing Authority acknowledges that the character of a locality is not something that remains static, but which can alter at any time or over a period of time. Its decision on an application will be based on its assessment of the character of a locality at the time an application is determined. BCP Licensing Authority take the view that 'locality' is where the premises that are the subject of the application are situated, including, but not beyond, their immediate vicinity.
- 11.5 As a general rule, a locality whose character falls predominantly into one or more of the following categories will generally be considered inappropriate for the grant or renewal of a sex establishment licence:
- family and child-oriented leisure or shopping areas, including the Pier Approach and seafront
  - predominantly family residential areas, with or without retail, fast food etc outlets serving the local population.
- 11.6 In considering applications for the grant of a new licence, BCP Licensing Authority will also take account of the potential impact of the licensed activity on crime and disorder; and where there is already one or more sex establishment premises in the locality, the impact of an additional licensed sex establishment premises.

## 12. Layout Character and Condition

- 12.1 With regard to an application for the grant or renewal of a licence, BCP Licensing Authority will also take into account the layout, character or condition of the premises, vehicle, vessel or store in respect of which the application is made.
- 12.2 BCP Licensing Authority will, in considering applications for renewal, take into account past demonstrable adverse impact from the activity; and whether appropriate measures have been agreed and properly implemented by the applicant to mitigate any adverse impacts.

## 13. Application Process

- 13.1 An application for the grant, renewal, transfer or variation of a licence must be made in writing to BCP Licensing Authority on the prescribed application form. This includes electronic applications submitted by email.
- 13.2 Application forms, application guidance notes, and notices for public advertisement are available upon request from the Licensing Team at [Licensing@bcpcouncil.gov.uk](mailto:Licensing@bcpcouncil.gov.uk) or on the Council website at [www.bcpcouncil.gov.uk](http://www.bcpcouncil.gov.uk).

The address for applications is:

The Licensing Manager  
Licensing Team  
BCP Council, Town Hall, Bourne Ave,  
Bournemouth, BH2 6EB or via email [licensing@bcpcouncil.gov.uk](mailto:licensing@bcpcouncil.gov.uk)

- 13.3 Applicants for sex establishment licenses must give public notice of the application by publishing an advertisement in a local newspaper no later than 7 days after the date the

application is made. A notice must also be displayed on or near the premises in a place where members of the public can conveniently read it for a period of 21 days beginning with the date the application is made.

13.4 Where an application is made other than by means of a relevant electronic facility, the applicant must send a copy to Dorset Police within 7 days of the application being made.

13.5 Where an application is made by means of a relevant electronic facility, BCP Licensing Authority shall send a copy of the application to Dorset Police, no later than 7 days after the date the application is received.

## **Exemptions**

13.6 Under the Local Government (Miscellaneous Provisions) Act 1982 there is an exemption for sexual entertainment venue premises which provide relevant entertainment on an infrequent basis. These are defined within paragraph 2A of Schedule 3 as inserted by section 27 of the Police and Crime Act 2009 as premises where –

- no relevant entertainment has been provided on no more than 11 occasions within a 12 month period;
- no such occasion has begun within a period of one month beginning with the end of the previous occasions; and
- no such occasion has lasted longer than 24 hours
- other premises or types of performances or displays exempted by an order of the Secretary of State

## **Notices**

The applicant must advertise the application in three ways:

- Advertisement in a local newspaper within 7 days of the application
- Advertise at the premises by way of a site notice for 21 consecutive days
- Notice of the application to be sent to the Chief Constable of Dorset Police within 7 days of the application

13.7 Proof that the applicant has advertised the application will be required as part of the application process.

## **Applicant suitability**

13.8 BCP Licensing Authority will need to be satisfied that the applicant for a sex establishment licence is suitable to operate the business.

13.9 Applicants will be required to submit application forms which include a personal information form and a Disclosure and Barring Service (Standard DBS disclosure) issued within the last month. If an applicant is a company all directors will be required to submit a personal information form and a standard DBS disclosure. The cost of any criminal record checks will be paid by the applicant.

13.10 The applicant's suitability will be checked using the above documentation and in consultation with Dorset Police. Applicants may also be asked to attend an interview to support their application.

13.11 The suitability of the applicant is important to ensure that the interests of the public are protected. BCP Licensing Authority will use the methods described above to ensure that the proposed operator:

- is honest
- has a clear understanding of the conditions that may be attached to the licence
- has a suitable business plan which will deliver compliance of the standard conditions
- has no unspent conviction of a nature that deem him/her unsuitable

13.12 Applications for a sex establishment licence for a sexual entertainment venue will also show they have:

- a clear code of conduct for customers
- a clear code of conduct for performers and
- a clear policy on pricing

13.13 BCP Licensing Authority will take all of these criteria into account when determining the licence. Non-compliance of one or more of the criteria will not necessarily exclude the operator from holding a sex establishment licence providing the applicant is able to prove to BCP Licensing Authority that the interest of the public is protected.

## 14. Refusal of Application

14.1 There are 4 types of application available to the applicant:

- New
- Renewal
- Transfer
- Variation (full or minor)

14.2 There are a number of mandatory grounds for refusing applications and these are set out in paragraph 12 (1) of Schedule 3. A licence must not be granted:

- to a person under the age of 18
- to a person who is for the time being disqualified due to the person having had a previous licence revoked in the area of the appropriate authority within the last 12 months
- 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 six months immediately preceding the date when the application was made, or
- to a body corporate which is not incorporated in an EEA State, or
- to a person who has, 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

14.3 The only discretionary grounds upon which BCP Licensing Authority may refuse an application are that the applicant for a new, renewal or transfer of a licence is unsuitable to hold a licence by reason of having been convicted of an offence or for any other reason;

- that if the licence were to be granted, renewed or transferred, the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application himself
- for new or renewal applications only, 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 BCP Licensing Authority considers is appropriate for that locality (Paragraph 12 (3)(c) of Schedule 3)

- for new or renewal applications only, that the grant of the licence would be inappropriate, having regard to:
  - the character of the relevant locality, or
  - 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 (Paragraph 12 (3)(d) of Schedule 3)

14.4 BCP Licensing Authority recognises that questions about the character of a locality and/or the use of a premises in the vicinity (when considering whether the grant or refusal of a licence would be inappropriate with reference to paragraph 12 (3)(d) of Schedule 3), must be decided on the facts and merits of the individual application at the time the application is determined.

14.5 The holder of a Licence may at any time apply for a variation of the terms, conditions or restrictions imposed on the licence. BCP Licensing Authority may make the variation specified in the application, or make any such variations as it thinks fit, or refuse the variation application.

## 15. Objections

15.1 Objectors can include individual residents, and/or residents' associations, community and/or trade associations. Councillors may also raise objections on their own behalf or can represent objectors. If the Councillor is also a member of the Licensing Committee, and either objects on his/her own behalf or represents an objector, he/she will not be allowed to determine the application.

15.2 Persons wishing to object to the application must submit a written representation (this can be by means of an electronic facility) of the general terms of the objection not later than 28 days after the date of the application.

15.3 Persons objecting should have regard to the statutory grounds for refusal, as set out in paragraph 6. BCP Licensing Authority does not have the right to, and will not, consider any morality issues relating to sex establishments. Consequently, objections stating that sex establishments should not be allowed on moral grounds will not be considered. Nor will objections that are frivolous or vexatious be considered. Where objections are rejected, the objector will be given a written reason.

15.4 Decisions on whether objections are on moral grounds, frivolous or vexatious will be made objectively by officers of the Council.

15.5 The names and address of objectors will not be disclosed to applicants or published in public reports in accordance with the Local Government (Miscellaneous Provisions) Act 1982. Such details will be made available to members of the Licensing Committee. Objectors will be invited to speak at the hearing, where their identity will be known to the applicant. Alternatively, they may choose to elect a spokesperson to speak on their behalf, such as their local ward Councillor.

15.6 Objections should:

- be made in writing (preferably in duplicate, unless submitted electronically)
- be in black ink on single sides of A4 paper
- indicate the name and address of the person or organisation making the representation
- indicate the premises to which the objection relates

- indicate the proximity of the premises to the person making the objection. A sketch map or plan may be helpful to show this
- clearly set out the reasons for making the objection

15.7 BCP Licensing Authority will notify the applicant in writing of the general terms of any objection it receives within 28 days of the application.

15.8 BCP Licensing Authority will facilitate mediation between applicants and others who may make objections, to achieve a satisfactory outcome for all involved, wherever possible and where resources permit.

## 16. Hearings

16.1 All new applications for any sex establishment will be referred to the Licensing Committee for determination. In addition, any application for renewal of such an application will be referred to the Licensing Committee in cases where a representation has been received and not withdrawn.

16.2 The hearing shall be conducted in accordance with the Councils Hearings Procedure. The procedure may change at the discretion of the Chairman of the Licensing Committee.

16.3 Those who have made an objection to an application shall be invited to attend a hearing and state their case to the Licensing Committee but will only be permitted to speak on matters relevant to their written representation to BCP Licensing Authority.

### Determining an application

16.4 In determining licence applications under the 1982 Act BCP Licensing Authority will take into consideration the application before it, any comments made by the Chief Constable of Police and any objections received as well as local knowledge including local issues and cultural sensitivities.

16.5 In all cases the Licensing Committee reserves the right to consider each application on its own merit.

16.6 Every decision to refuse a licence made by the Licensing Committee or sub-committee will be accompanied by clear reasons for the decision.

### Right of appeal

16.7 There are no rights of appeal for statutory authorities or persons who have objected to the grant of a sex establishment licence.

16.8 There is a right of appeal for applicants/licence holders in the following circumstances:

- refusal to grant a new sex establishment licence
- refusal to renew an existing sex establishment licence
- refusal to transfer an existing sex establishment licence
- refusal to vary an existing sex establishment licence
- imposition of conditions on a sex establishment licence
- revocation of a sex establishment licence

16.9 However, an appeal may not be lodged where the decision made by BCP Licensing Authority has been made on the basis that:



- the number of sex establishments, or 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
- the grant is inappropriate, having regard:
  - a) to the character of the relevant locality
  - b) to the use to which any premises in the vicinity are put
  - c) to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

16.10 Any appeal to the Magistrates' Court must be made within 21 days from the date on which the person is notified of the decision or became aware of the condition.

## 17. Period of Licence

17.1 A sex establishment licence will remain in force for up to one year, or for a shorter period as determined by BCP Licensing Authority.

## 18. Conditions

18.1 In granting an application, BCP Licensing Authority may attach such specific conditions as it considers appropriate, in accordance with paragraph 8 of schedule 3 of the 1982 Act, and standard terms and conditions in accordance with paragraph 13 of the 1982 Act.

18.2 BCP Licensing Authority will impose standard conditions on all licences. These conditions are attached at [Appendix A](#).

18.3 Where it is reasonable and necessary to do so, the Licensing Committee or Sub Committee may impose additional conditions on a sex establishment licence or alter or omit some of the standard conditions from the sex establishment licence.

18.4 Any breaches of the conditions attached to the licence may result in the revocation of that licence.

## 19. Revocation

19.1 Should information be received by BCP Licensing Authority that circumstances have changed in such a way that the applicant would be deemed unsuitable or that the manager or beneficiary would be unsuitable should they be applying for a new licence, BCP Licensing Authority may revoke the sex establishment licence.

19.2 BCP Licensing Authority will not revoke a licence without first giving the holder of the licence the opportunity to make representation before a licensing sub-committee.

19.3 The licensee will be given a statement in writing of the reasons for revocation within 7 days of the requirement being made.

19.4 The revocation will take effect once the appeal period has expired, or if an appeal is lodged after the determination or abandonment of the appeal.

## 20. Waiver

20.1 Should BCP Licensing Authority decide that a licence would be unreasonable or inappropriate, it may waive the need for a licence, for example in the case of a medical book shop, sex clinic, in borderline cases, to correct errors or for minor or temporary events.

20.2 BCP Licensing Authority would only waive the need for a licence where the activity is low risk and/or temporary. However, a waiver will not be considered in cases where a licence is reasonable and appropriate or where there is public interest.

20.3 Unsuccessful applications for waivers will be notified accordingly and provision will be made for them to make a formal application for a sex establishment licence.

## 21. Compliance

21.1 BCP Licensing Authority is responsible for the administration, compliance and enforcement of the licensing regime. The main enforcement role for BCP Licensing Authority in terms of the 1982 Act as amended will be to ensure compliance with the conditions placed upon the licence.

21.2 In carrying out its enforcement duties with regards to the inspection of premises; and the powers to institute criminal proceedings in respect of certain offences under the Act BCP Licensing Authority will endeavour to be:

- proportionate: regulators should only intervene when necessary, remedies should be appropriate to the risk posed, and costs identified and minimised
- accountable: regulators must be able to justify decisions, and be subject to public scrutiny
- consistent: rules and standards must be joined up and implemented fairly
- transparent: regulators should be open, and keep regulations simple and user friendly and
- targeted: regulation should be focused on the problem and minimise side effects.

21.3 BCP Licensing Authority will endeavour to avoid duplication with other regulatory regimes so far as possible.

21.4 BCP Licensing Authority recognises the interest of both residents and business and will work closely with partners to assist licence holders to comply with the law and the conditions attached to the licence. However proportionate and firm action will be taken against those who commit serious offences or consistently break the law or breach the conditions of the licence.

21.5 BCP Licensing Authority has set clear standards of service and performance that the public and business can expect. In particular an enforcement policy has been created that explains how the council will undertake its role and how the principles of effective enforcement will be achieved.

## 22. Further information

22.1 Further information relating to this policy can be found at the following sites:

- <https://www.bcpCouncil.gov.uk/Council-and-Democratic/Consultation-And-Research/Local-Data/Local-Data.aspx>
- <https://democracy.bcpCouncil.gov.uk/ieListMeetings.aspx?Committeed=288>
- <https://www.bcpCouncil.gov.uk/About-the-council/Equality-diversity-and-inclusion/Our-commitment-to-equality-diversity-and-inclusion.aspx>



### Bournemouth Christchurch and Poole Council

#### LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 as amended by the Policing and Crime Act 2009

Regulations made under Paragraph 13 of Schedule 3 to the 1982 Act prescribing standard conditions applicable to licences for sex establishments effective from the appointed day.

### Section A

#### General condition for Sexual Establishments

1. In the event of a conflict between these Regulations and any special conditions contained in a licence relating to a Sex Establishment the special conditions shall prevail.
2. The grant of a licence for a Sex Establishment shall not be deemed to convey any approval or consent which may be required under any enactment, byelaw, order or regulation other than Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982.
3. A refusals register shall be kept and made available for inspection by an authorised officer of the Council or Police Officer.
4. The Premises shall be maintained in good repair and condition.
5. 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.
6. The licence holder shall ensure a copy of the licence and of these Regulations are required to be exhibited in accordance with paragraph 14(1) of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 as amended and shall be reproduced to the same scale as those issued by the Council.
7. The copy of the licence required to be displayed shall be suitably framed and the copy of these Regulations shall be retained in a clean and legible condition.

## Section B

### Sexual Entertainment Venues – Standard Conditions

#### Conduct and Management

1. Where the licence holder is a body corporate or an unincorporated body, any change of director, company secretary or other person responsible for the management of the body is to notify the Council in writing within 14 days of such change and such written details as the Council may require in respect of any new director, secretary or manager are to be furnished within 14 days of a request of writing from the Council.
2. The licence holder shall retain control over all portions of the premises as defined on the approved premises plans, and shall not let, licence or part with possession of any part of the licensed premises.
3. The licence holder shall nominate a Duty Manager for the premises on each occasion they are open to the public and being used for the purposes of providing relevant entertainment.
4. The licence holder shall ensure the name of the Duty Manager is displayed in the foyer or reception of the premises so the name can easily be viewed by Police or authorised Council officers carrying out an inspection of the premises, or otherwise by persons using the venue.
5. The Duty Manager shall be responsible for ensuring the premises operate in accordance with the conditions applicable to the sex establishment licence.
6. The Duty Manager shall remain on the premises while they are on duty save in the event of an emergency situation.
7. The Licensee must ensure that a suitable number of trained staff are employed to supervise the interior of the premises ("floor supervisors") whilst performances are given under this licence.
8. The Licensee must ensure that a sufficient number of floor supervisors are employed in the premises to supervise customers and performers whilst sexual entertainment is provided.
9. No person under the age of 18 shall be admitted to the licensed premises whilst the sex establishment licence is being used. A notice advising no admittance to persons under the age of 18 shall be prominently displayed at each public entrance to the premises.
10. No person under the age of 18 shall be employed to work at the licensed premises in any capacity, or allowed to work in the premises on a self-employed basis.
11. The premises shall follow the 'Think 25' initiative, whereby any customer who enters the premises who appears to be under the age of 25 shall be asked for age identification. The only ID accepted shall be photo identification such as a picture driving licence, a passport or a PASS ID.
12. An incident / refusal log book shall be maintained at the premises. The incident / refusal log shall, as a minimum, give details of:

- Any persons refused entry to the premises and the reason for refusal
  - Any persons ejected from the premises and the reason for ejection
  - Any inappropriate behaviour by customers
  - Any incidents of crime or disorder
  - Any complaints made by customers, dancers or staff
13. The incident / refusal log shall show the date, the time of the incident, the name of the staff member reporting the incident, a brief description of the customer involved / name of dancer or staff member where appropriate and brief description of the incident and any action taken by staff.
  14. The incident / refusal log shall be kept in a place where it can be easily accessed by staff working at the premises and all staff shall be aware of the procedure to follow.
  15. The licence holder and/or Duty Manager shall ensure the incident / refusal log is checked periodically, at least once a week, to ensure the log is being effectively used.
  16. The incident / refusal log shall be made available for inspection to the Police and or an authorised officer of the council on request.
  17. The licence holder and/or Duty Manager shall ensure that the public is not admitted to any part or parts of the premises other than those, which have been approved by the Council.
  18. No part of the licensed premises shall be used by prostitutes for the purpose of solicitation or otherwise exercising their calling.

### **Advertising, Premises Appearance and Layout**

19. There shall be no touting for business in any area for the premises by but not limited to persons holding advertising boards, leafleting, advertising on branded vehicles or personal solicitation, this includes leafletting.
20. The Council shall not permit the display of any form of imagery or photographs that the Council believes could be construed as offensive to public decency.
21. No display or advertisement of the activities permitted by the sex establishment licence shall be exhibited so as to be visible from outside of the premises except:
  - any notice required by law, by these regulations, or by any condition of the sex establishment licence granted by the Council
  - the name of the premises as specified in the sex establishment licence
  - the hours of opening of the premises
  - notice of any admission charge to the premises
  - unless the Council has given its prior consent in writing that such display or advertisement may be used.
22. All windows must be dressed or designed so as to prevent persons outside the premises having a view of the interior.
23. The premises shall not contain any sign, advertising material, goods or display without the written consent of the Council.

24. No alterations or additions either internal or external and whether permanent or temporary to the structure, lighting or layout of the premises shall be made except with the prior approval of the Council.
25. The layout of the premises shall be such that performers cannot be seen from outside the premises.
26. Performers may not stand in lobby, reception or foyer areas or outside the premises entrance for the purposes of greeting customers or encouraging customers to enter the venue.

## **CCTV**

27. A suitable CCTV system shall be installed and maintained at the premises in accordance with the requirements of Dorset Police.
28. The system shall be operational at all times the premises is open to members of the public and will cover all public areas including booths and VIP areas.
29. The positioning of the CCTV cameras will be agreed with Dorset Police prior to installation and will comply with that agreement at all times. Changes to the CCTV system and / or positioning of the cameras may only be made with the written consent of Dorset Police.
30. The licence holder shall retain recordings for 31 days, which will be delivered to the Police on request (subject to Data Protection legislation as appropriate).
31. At all times that the premises are open to the public there will be a member of staff on duty who is conversant with the operating of the CCTV system and who is able to download immediately any footage requested by the Police, an officer from the Licensing Authority or an authorised agent.

## **Requirements for a code of Conduct for Dancers**

32. There shall be a Code of Conduct for Dancers in place at the venue that has been agreed in writing by the licence holder and the Council.
33. The Code of Conduct shall, as a minimum, contain the conditions set out in the section below entitled "Code of Conduct for Dancers".
34. No change shall be made to the Dancer's Code of Conduct without the prior written consent of the Council.
35. The Dancers Code of Conduct must state that dancers who do not comply with the Code of Conduct will face disciplinary proceedings.
36. The licence holder shall require all dancers to sign an acknowledgement that they have received a copy of the Dancer's Code of Conduct and have read and understood its contents and shall comply with such Code of Conduct at all times they are working at the premises as dancers.
37. The licence holder shall retain original records showing that each dancer has signed to acknowledge receipt of the Dancer's Code of Conduct.

38. The premises management and staff (including security staff) shall be aware of the content of the Dancer's Code of Conduct and shall ensure it is complied with.

### **Requirements for a Code of Conduct for Customers**

39. There shall be a Code of Conduct for Customers in place at the venue that has been agreed in writing by the licence holder and the Council.
40. The Code of Conduct shall, as a minimum, contain the conditions set out in the section below entitled "Code of Conduct for Customers".
41. The Code of Conduct for Customers shall be displayed in prominent positions throughout the premises where it is visible to all customers.
42. No change shall be made to the Customers Code of Conduct without the prior written consent of the Council.
43. The Customer's Code of Conduct must state that customers who do not comply with the Code of Conduct will be ejected from the premises.
44. The premises management and staff (including security staff) shall be aware of the content of the Customer's Code of Conduct and shall ensure it is complied with.
45. Where a customer breaches the Customers Code of Conduct, this shall be recorded in the incident / refusals log.

### **Disciplinary Procedure**

46. The Code of Conduct for Dancers shall be detailed in writing and a copy of it provided to each dancer prior to their taking up their first shift at the premises together with a copy of the licence holder's Policy on breach of such Code.
47. The licence holder shall require all dancers to sign an acknowledgement that they have been provided with a copy of the Code of Conduct for Dancers and the Policy on breach and have read and understood its content,

### **Code of Conduct for Dancers**

48. The Dancer's Code of Conduct shall apply whilst the Dancer is working or on shift at the premises and include the following conditions as a minimum:
  - a) Dancers shall only perform on the stage(s), to a seated audience or in other such other areas of the licensed premises as may be agreed in writing with the Council. ("the performance areas")

Dancers may not accept any telephone number, email address, address or contact information from any customer, except in the form of a business card, which must be surrendered to the Licensee or their representative before leaving the premises.
  - b) Dancers may not intentionally touch a customer during a performance
  - c) Dancers may not permit a customer to touch them during a performance

Dancers must not when performing, intentionally touch a customer at any time during the performance unless accidentally or due to a third party or for the purpose of restraint. For

the avoidance of doubt if a performer has to intentionally touch a customer for the purpose of restraint, the touch should only be made above the customer's chest or on their limbs and only with the performer's hands

d) Dancers may not straddle the customer

e) If a customer attempts to touch or speak to a dancer inappropriately, the dancer shall stop the performance and advise the customer of the rules of the Code of Conduct. If the customer continues with their inappropriate behaviour, the dancer shall stop the performance and inform the management

f) If a customer engages in acts of masturbation or other sexual behaviour, the dancer shall cease the performance immediately and inform the premises management.

g) Dancers may not touch their own breasts, anus or genitals with their fingers, lips or tongue

h) Dancers may not intentionally touch the genitals, anus or breasts of another dancer, nor knowingly permit another dancer to touch their genitals, anus or breasts

i) Dancers may not perform any act which simulates masturbation, oral sex or sexual intercourse, including the insertion of any object, including their own finger, in to the anus or vagina

j) Dancers shall not solicit for gratuities or payment for sexual act. Dancers shall not engage in any act of prostitution

k) Dancers may not be in the company of a customer unless it is in an area of the premises that is open to the public

l) Dancers shall not perform if under the influence of alcohol or drugs.

m) Dancers shall use the dressing room facilities provided for their exclusive use to change for their performance.

n) Dancers shall only use the smoking area provided specifically for their use.

o) Dancers shall only use the sanitary facilities specifically provided for their use.

p) Dancers shall not leave the premises or otherwise be visible outside the premises, including for smoking breaks, unless dressed in suitable attire

q) All dancers shall comply with this Code of Conduct. Any failure to adhere to the Code of Conduct shall render the dancer subject to the Policy on breach, a copy of which must be provided to each dancer.

r) Customers must be seated in an upright position against the back of the booth or seat with their hands by their sides or on their knees before a dancer can start a table dance

49. Customers must remain seated during the entire performance of a private dance.

50. During times when performances of sexual entertainment are taking place, customers may only dance in areas specifically designated by the Council as being separate from the areas for performance of sexual entertainment.

51. Customers must remain fully dressed at all times.

52. Customers may not touch dancers during a performance.

53. Customers may not make lewd or offensive remarks to dancers.

54. Customers may not harass or intimidate dancer.

55. Customers may not ask dancers to perform any sexual favour.

56. Customers may not perform acts of masturbation or indulge in other sexual behaviour

## Staff welfare

57. Dancers under the age of 18 will not be permitted to work at the premises. All reasonable steps shall be taken to verify the age of the dancer such as the production of photo identification.
58. The licence holder shall ensure dancers have secure dressing rooms and facilities to secure valuables.
59. The licence holder shall ensure that there are sanitation facilities for the use solely of the dancers and other employees of the premises.
60. Each dancer shall be provided with an information pack which will include the following:
  - A copy of relevant conditions attached to the Sex Establishment Licence
  - Details of any other conditions applied by the management of the premises
  - A copy of the Dancers Code of conduct
  - A copy of the Customers Code of Conduct
  - **The premises Disciplinary Procedure Policy including breach of Dancers Code of Conduct**
  - Pricing policy
  - Nationally recognised unions, trade organisations or other bodies that represent the interest of the dancers
61. The licence holder shall maintain written records of all dancers working at the premises. The records shall show the full name of the dancer, home address, date of birth and the date the dancer was provided with the information pack as stated above.
62. Such records shall be kept on the licensed premises and produced for inspection by the Police or an authorised council officer on request.
63. Any instances of the dancer breaching the Dancers Code of Conduct and any instances of discipline and fines imposed will be recorded on their record. The record shall include the date and time of the incident and the breach that occurred.
64. All booths/areas for VIP's used for private dances must be visible to supervision and must not have closed doors or closed curtains that prevent performances from being observed.
65. All booths/areas for VIP's 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/areas are in use. Direct supervision does not include remote supervision by CCTV.
66. Dancers will only be present in the licensed area in a state of nudity when they are performing on stage or providing a private dance.

## Section C

### Special Conditions for Sex Shops

#### Hours of opening

1. Except with the previous consent of the Council, a Sex Establishment shall not be open to the public before 09:00 hours and shall not be kept open after 06.00pm.
2. Except with the previous consent of the Council, a Sex Establishment shall not be open on Sundays or any Bank Holidays or any public holidays.

#### Conduct and Management

3. Where the licence holder is a body corporate or an unincorporated body, any change of director, company secretary or other person responsible for the management of the body is to notify the Council in writing within 14 days of such change and such written details as the Council may require in respect of any new director, secretary or manager are to be furnished within 14 days of a request of writing from the Council.
4. The Licensee or some responsible person nominated by him in writing for the purpose of managing the Sex Establishment in his absence and of whom details (including photographs) have been supplied to and approved in writing by the Council shall be in charge of and upon the Premises during the whole time they are open to the Public.
5. The Licensee shall maintain a register in which he shall record the name and address of any person approved under Regulations 8 or 9 hereof by the Council 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. Any change in the particulars shall be recorded forthwith in the register and the register shall be kept available for inspection by the Police and by authorised officers of the Council.
6. The licence holder shall provide the Council with a list of all staff employed at the premises and shall advise the Council and Dorset Police in writing of all staff changes within fourteen days of such changes.
7. The licence holder shall retain control over all portions of the premises as defined on the approved premises plans, and shall not let, licence or part with possession of any part of the licensed premises.
8. The licence holder shall nominate a Duty Manager for the premises on each occasion they are open to the public.
9. The name of the person responsible for the management of a Sex

Establishment (whether the licensee or a manager approved by the Council) shall be prominently displayed within the Sex Establishment throughout the period during which he is responsible for its conduct.



10. The licence holder shall ensure the name of the Duty Manager is displayed in the foyer or reception of the premises so the name can easily be viewed by Police or authorised Council officers carrying out an inspection of the premises.
11. The Licensee shall maintain good order in the Premises.
12. The Duty Manager shall be responsible for ensuring the premises operate in accordance with the conditions applicable to the sex establishment licence.
13. The Duty Manager shall remain on the premises while they are on duty save in the event of an emergency situation.
14. No person under the age of 18 shall be admitted to the licensed premises whilst the sex establishment licence is being used. A notice advising no admittance to persons under the age of 18 shall be prominently displayed at each public entrance to the premises.
15. No person under the age of 18 shall be employed to work at the licensed premises in any capacity, or allowed to work in the premises on a self-employed basis.
16. The premises shall follow the 'Think 25' initiative, whereby any customer who enters the premises who appears to be under the age of 25 shall be asked for age identification. The only ID accepted shall be photo identification such as a picture driving licence, a passport or a PASS ID.
17. An incident / refusal log book shall be maintained at the premises. The incident / refusal log shall, as a minimum, give details of:
  - Any persons refused entry to the premises and the reason for refusal
  - Any persons ejected from the premises and the reason for ejection
  - Any inappropriate behaviour by customers
  - Any incidents of crime or disorder
18. The incident / refusal log shall show the date, the time of the incident, the name of the staff member reporting the incident, a brief description of the customer involved or staff member where appropriate and brief description of the incident and any action taken by staff.
19. The incident / refusal log shall be kept in a place where it can be easily accessed by staff working at the premises and all staff shall be aware of the procedure to follow.
20. The licence holder shall ensure the incident / refusal log is checked periodically, at least once a week, to ensure the log is being effectively used.
21. The incident / refusal log shall be made available for inspection to the Police and or authorised officer of the council on request.
22. The licence holder shall ensure that the public is not admitted to any part or parts of the premises other than those, which have been approved by the Council.
23. No part of the licensed premises shall be used by prostitutes for the purpose of solicitation or otherwise exercising their calling.
24. There shall be no touting for business for the premises by way of persons holding advertising boards, branded vehicles or personal solicitation outside or in the vicinity of the Premises.

25. The Licensee shall ensure that during the hours the Sex Establishment is open for business every employee wears a badge of a type to be approved by the Council indicating his name and that he is an employee.

### **Advertising, Premises Appearance and Layout**

26. The Council shall not permit the display of any form of imagery or photographs that the Council believes could be construed as offensive to public decency.

27. No display or advertisement of the activities permitted by the sex establishment licence shall be exhibited so as to be visible from outside of the premises except:

- any notice required by law, by these regulations, or by any condition of the sex establishment licence granted by the Council
- the name of the premises as specified in the sex establishment licence
- the hours of opening of the premises
- notice of any admission charge to the premises
- unless the Council has given its prior consent in writing that such display or advertisement may be used.

28. 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 condition 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.

29. All windows must be dressed or designed so as to prevent persons outside the premises having a view of the interior.

30. No window shall contain any sign, advertising material, goods or display without the written consent of the Council.

31. The external doors to the Sex Establishment shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in a good working order.

32. Windows and openings to the Premises other than entrances shall not be obscured otherwise than with the consent of the Council but shall have suspended behind them, in a position and at an attitude approved by the Council, opaque screens or blinds of a type and size approved by the Council. This regulations shall not be construed as lessening the obligation of the licensee under Regulation 28 hereof.

33. 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, unless by reason of disability.

34. Lighting in all parts of the Premises as approved by the Council shall be in operation continuously during the whole of the time that the Sex Establishment is open to the public.

35. The number, size and position of all doors or openings provided for the purposes 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.
36. No alterations or additions either internal or external and whether permanent or temporary to the structure, lighting or layout of the premises shall be made except with the prior approval of the Council.
37. 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 to the Sex Establishment who are disabled where applicable and accordance with the Equalities Act 2010.

#### **Use**

38. A Sex Shop shall be conducted primarily for the purpose of the sale of goods by retail.
39. No change of use of any portion of the premises from that approved by the Council as a Sex Shop shall be made until the consent of the Council has been obtained thereto.
40. No change from a Sex Cinema to a Sex Shop or from a Sex Shop to a Sex Cinema shall be effected without the consent of the Council.
41. Neither Sex Articles nor other things intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity shall be displayed, sold, hired, exchanged, loaned or demonstrated in a Sex Cinema.

#### **Goods available in Sex Establishments**

42. 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 being charged.
43. All printed matter offered for sale, hire, exchange or loan shall be available for inspection prior to purchase and a notice to this effect shall be prominently displayed within the Sex Establishment.
44. No film or video shall be exhibited, sold or supplied in digital, physical and virtual media unless it has been passed by the British Board of Film Classification, or such other authority performing a similar scrutinising function as may be notified to the licensee by the Council, and bears a certificate to that effect and is a reproduction authorised by the owner of the copyright of the film or video/DVD/Blu-ray film or computer game/memory stick, compact disc, or other relevant media so certified.
45. The Licensee shall without charge, display and make available in the Sex Establishment such free literature on counselling on matters related to sexual problems 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 cash collection points in the Sex Establishment.

### **Safety**

46. The licensee shall take all reasonable precautions for the safety of the public and employees.
47. The premises shall be provided with fire appliances suitable to the fire risks of the premises and such fire appliances shall be maintained in proper working order and shall be available for instant use.

### **Notification of Changes**

48. Where the consent of the Council is required to a change under Regulations 21, 22 or 37 hereof, the application for consent shall be accompanied by such specifications, including plans, of the proposed changes as the Council shall require in respect of their consideration of the application.
49. Where there is a material change in the particulars given or referred to in the application for the grant or, where the licence has been renewed, in the most recent application for the renewal of the licence, the licensee shall notify the Council of the change as soon as reasonably practicable after it has taken place PROVIDED THAT it shall be necessary for the licensee to notify the Council of that change under this Regulation where the Council have given their consent under Regulation 21, 22 or 37, or where the Council have been notified of that change under Regulation 7.

## **Section D**

### **Sex Cinemas – Standard Conditions**

#### **Hours of opening**

1. Except with the previous consent of the Council, a Sex Establishment shall not be open to the public before 09:00 hours and shall not be kept open after 23:00 hours.
2. Except with the previous consent of the Council, a Sex Establishment shall not be open on Sundays or any Bank Holidays or any public holidays.

#### **Conduct and Management**

3. Where the licence holder is a body corporate or an unincorporated body, any change of director, company secretary or other person responsible for the management of the body is to notify the Council in writing within 14 days of such change and such written details as the Council may require in respect of any new director, secretary or manager are to be furnished within 14 days of a request of writing from the Council.
4. The licence holder shall provide the Council with a list of all staff employed at the premises and shall advise the Council and Dorset Police in writing of all staff changes within fourteen days of such changes.
5. The licence holder shall retain control over all portions of the premises as defined on the approved premises plans, and shall not let, licence or part with possession of any part of the licensed premises.
6. The licence holder shall nominate a Duty Manager for the premises on each occasion they are open to the public.
7. The licence holder shall ensure the name of the Duty Manager is displayed in the foyer or reception of the premises so the name can easily be viewed by Police or authorised Council officers carrying out an inspection of the premises.
8. The Duty Manager shall be responsible for ensuring the premises operate in accordance with the conditions applicable to the sex establishment licence.
9. The Duty Manager shall remain on the premises while they are on duty save in the event of an emergency situation.
10. No person under the age of 18 shall be admitted to the licensed premises whilst the sex establishment licence is being used. A notice advising no admittance to persons under the age of 18 shall be prominently displayed at each public entrance to the premises.
11. No person under the age of 18 shall be employed to work at the licensed premises in any capacity, or allowed to work in the premises on a self-employed basis.
12. The premises shall follow the 'Think 25' initiative, whereby any customer who enters the premises who appears to be under the age of 25 shall be asked for age identification. The only ID accepted shall be photo identification such as a picture driving licence, a passport or a PASS ID.

13. An incident / refusal log book shall be maintained at the premises. The incident / refusal log shall, as a minimum, give details of:
  - Any persons refused entry to the premises and the reason for refusal
  - Any persons ejected from the premises and the reason for ejection
  - Any inappropriate behaviour by customers
  - Any incidents of crime or disorder
14. The incident / refusal log shall show the date, the time of the incident, the name of the staff member reporting the incident, a brief description of the customer involved or staff member where appropriate and brief description of the incident and any action taken by staff.
15. The incident / refusal log shall be kept in a place where it can be easily accessed by staff working at the premises and all staff shall be aware of the procedure to follow.
16. The licence holder shall ensure the incident / refusal log is checked periodically, at least once a week, to ensure the log is being effectively used.
17. The incident / refusal log shall be made available for inspection to the Police and or authorised officers of the council on request.
18. The licence holder shall ensure that the public is not admitted to any part or parts of the premises other than those, which have been approved by the Council.
19. No part of the licensed premises shall be used by prostitutes for the purpose of solicitation or otherwise exercising their calling.
20. There shall be no touting for business for the premises by way of persons holding advertising boards, branded vehicles or personal solicitation.

### **Advertising, Premises Appearance and Layout**

21. The Council shall not permit the display of any form of imagery or photographs that the Council believes could be construed as offensive to public decency.
22. No display or advertisement of the activities permitted by the sex establishment licence shall be exhibited so as to be visible from outside of the premises except:
  - any notice required by law, by these regulations, or by any condition of the sex establishment licence granted by the Council
  - the name of the premises as specified in the sex establishment licence
  - the hours of opening of the premises
  - notice of any admission charge to the premises
  - unless the Council has given its prior consent in writing that such display or advertisement may be used.
23. All windows must be dressed or designed so as to prevent persons outside the premises having a view of the interior.
24. No window shall contain any sign, advertising material, goods or display without the written consent of the Council.
25. The external doors to the Sex Establishment shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in a good working order.

26. No fastenings of any description shall be fitted upon any booth or cubicle within the Sex Establishment nor shall more than one person be present in any such booth or cubicle at any time.
27. No alterations or additions either internal or external and whether permanent or temporary to the structure, lighting or layout of the premises shall be made except with the prior approval of the Council.

### **Exhibition of film**

28. No film shall be exhibited unless:
  - a. it has been passed by the British Board of Film Classification as U, PG, 12, 15, 18 or RESTRICTED (18) film and no notice of objection to its exhibition has been given by the Council, or
  - b. the film has been passed by the Council for showing within its authority
29. If the licence holder is notified by the Council in writing that it objects to the exhibition of a film specifying the grounds of objection, such film shall not be exhibited.
30. Not less than 28 days notice in writing shall be given to the Council of any proposal to exhibit any film which has not been classified as specified above. Such a film may only be exhibited if consent has been obtained from the Council in writing and in accordance with the terms of any such written consent.
31. When the programme includes a film in the 12, 15 or 18 category no person under the age of 18 shall be admitted to any part of the programme (see condition 14).
32. If the Council does not agree with the category of any film as passed by the British Board of Film Classification, it may alter the category or prohibit the showing of the film.
33. On notice of alteration of category being given by the Council to the licence holder, the film shall thereafter be treated as being in the altered category and the conditions applicable to the exhibition of films in the altered category shall be observed.
34. Immediately before each exhibition at the premises of a film (other than a current newsreel) passed by the British Board of Film Classification there shall be exhibited on the screen for at least 10 seconds in such a manner as to be easily read by all persons in the auditorium a reproduction of the certificate of the Board or, as regards a trailer, of the statement approved by the Board indicating the category of the film.
35. For a film passed by the Council, notices shall be conspicuously displayed both inside and outside the premises so patrons entering can easily read them. The notices shall state without the addition of any other words:

BCP Council

(Here insert title of film)

has been passed by the BCP Council as

(here insert the category assigned and the definition of the category)

36. Where a trailer is to be exhibited advertising a film passed by the Council, the notice shall state:

BCP Council

\*.....trailer advertising +.....film

(\*Here insert the category of the trailer)

(+Here insert the category of the film)

37. Every poster, advertisement, photograph, sketch, synopsis or programme relating to a film (other than a current news-reel) exhibited, or to be exhibited at the premises, shall indicate clearly the category of the film.

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## **Section E**

### **Requirements for Applications**

#### **Grant or Renewal of a licence**

1. To apply for the grant of a Sex Establishment Licence an applicant must: -
  - a) Send to the council: -
    - i) a completed application form;
    - ii) a plan to the scale of 1:100 of the premises to which the application relates unless the application is for renewal with no alteration to the approved plan.
    - iii) a non-returnable application fee
    - iv) upon grant of the application the remaining fee
  - b) display a notice on or near the premises;
  - c) advertise the application in a local newspaper;
  - d) supply a copy of the public notice and newspaper advertisement;
  - e) send a copy of the application and plan to Dorset Police within 7 days of making the application to the council.

#### **Variation or Transfer of a Licence**

2. To apply for the variation or transfer of a Sex Establishment Licence an applicant must:-
  - a) send to the council:-
    - i) a completed application form;
    - ii) where the application relates to structural amendments or amendment to that approved, e.g. appearance of the facade a plan of the premises to the scale of 1:100
    - iii) a non-returnable application fee
  - b) display a notice on or near the premises;
  - c) advertise the application in a local newspaper;
  - d) supply a copy of the public notice and newspaper advertisement;
  - e) send a copy of the application and plan to Dorset Police within 7 days of making the application to the council.

#### **Plan requirements**

3. The plan shall show: -
  - a) the extent of the boundary of the building, if relevant, and any external and internal walls of the building and, if different, the perimeter of the premises;
  - b) the location of points of access to and egress from the premises;
  - c) the location of escape routes from the premises;
  - d) in a case where the premises is to be used for more than one activity, the area within the premises to be used for each activity;
  - e) fixed structures (including furniture) or similar objects temporarily in a fixed location (but not furniture) which may impact on the ability of individuals on the premises to use exits or escape routes without impediment;
  - f) in a case where the premises includes a stage or raised area, the location and height of each stage or area relative to the floor;

- g) in a case where the premises includes any steps, stairs, elevators or lifts, the location of the steps, stairs, elevators or lifts;
  - h) in the case where the premises includes any room or rooms containing public conveniences, the location of the room or rooms;
  - i) the location and type of any fire safety and any other safety equipment including, if applicable, marine safety equipment; and
  - j) the location of a kitchen, if any, on the premises.
4. The plan may include a legend or key through which the matters mentioned or referred to above are sufficiently illustrated by the use of symbols on the plan.

### **Public notices**

5. A notice must be displayed at or on the premises to which the application relates for a period of not less than 21 consecutive days from the day following the day the application was given to the council, where it can be conveniently read from the exterior of the premises.
6. The notice must be on pale blue paper sized A4 or larger and printed legibly in black ink or typed in black in a font size equal to or larger than 16.
7. The notice must state: -
- a) details of the application and activities that it is proposed will be carried on or from the premises, for a new application or of the amendments proposed to the Licence or plan, if for a variation in respect of a Transfer of a licence, only the nature of the Sex Establishment licence will need to be stated.
  - b) the full name of the applicant,
  - c) the postal address of the premises, or in the case where there is no postal address, a description of the premises sufficient to enable the location and extent of the premises to be identified,
  - d) the date, being 28 days after that on which the application is given to the council, by which representations may be made to the council and that representations should be made in writing,
  - e) that it is an offence knowingly or recklessly to make a false statement in connection with an application and the maximum fine (£20,000) for which a person is liable on summary conviction for the offence.
8. Save in respect of a Minor Variation a similar notice must be published in a local newspaper or similar publication circulating in the BCP Council area within 7 days of giving the application to the council.

### **Variation of a licence**

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

## **Renewal of a licence**

12. The holder of a licence may apply for renewal of the licence. In order for the licence to continue to have effect during the renewal process, a valid application together with the appropriate fee must be submitted before the current licence expires.
13. The process of applying for renewal of a licence is the same as that for applying for an initial grant except that a plan of the premises is not required.
14. The fee for renewal of a licence is the same as that for the initial grant.

## **Transfer of a licence**

15. A person may apply for transfer of a licence at any time.
16. The process of applying for transfer of a licence is the same as that for applying for an initial grant except that a plan of the premises is not required.

## **Minor Variation to a Licence**

18. A full variation application shall not be required by the Council in respect of any alteration to layout or change of term or condition that has no adverse implications for the Council's Policy and which is of a minor nature (a Minor Variation) in the view of the Councils Licensing Manager.
19. An application for Minor Variation shall be sent to the Council where the Licensing Manager will first determine if the variation is of a minor nature,
20. The application should comprise of:-
  - a) a completed application form
  - b) where the application relates to plan amendments, a plan complying with the plan requirements
  - c) a non-returnable application fee  
(Note-if the Licensing Manager determines that the variation is not of a minor nature the application and fee will be returned)
21. Once determined the variation is of a minor nature the applicant shall:-
  - a) display a notice on or near the premises on white paper sized A4 or larger and printed legibly in black ink or typed in black in a font size equal to or larger than 16.
  - b) The notice must be displayed for a period of 14 clear days starting with the day on which the Licensing Manager communicates their decision that they have accepted the application as a Minor Variation
  - c) send a copy of the application to Dorset Police, Dorset Fire and Rescue Service within 7 days starting with the day on which the Licensing Manager communicates their decision that they have accepted the application as a Minor Variation
22. The Licensing Manager shall authorise the Minor Variation within 28 days of receipt of the application unless:-
  - a) the Licensing Manager (whose decision shall be final) does not regard the proposals as a Minor Variation and/or
  - b) a valid objection is received to the application, in which case the matter shall be listed for hearing by the next available subcommittee convened for such purposes.