

PLYMOUTH CITY COUNCIL

Subject: An Introduction to the Amended Sex Establishment Licensing System and Adoption of a Pool of Conditions

Committee: Licensing Committee

Date: 30 October 2012

Cabinet Member: Councillor Vincent

CMT Member: Anthony Payne (Director for Place)

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Ref:

Key Decision: No

Part: I

Purpose of the report:

Recent legislative changes provide the Council with the ability to exert a greater level of control on the position and operation of sex establishments. Businesses such as lap dancing clubs and similar operations are now subject to the same licensing system that applies to sex shops and sex cinemas.

Council resolved to adopt these changes on the 30 January 2012, effective from the 5 March 2012. The Council also resolved to adopt a Sex Establishments Licensing Policy that provides the framework within which all applications will be considered.

The Policing and Crime Act 2009 put in place transitional arrangements to be applied following the adoption of the legislative changes, which effectively gave lap dancing and similar operations six months to make an application, after which time the Council would consider these applications together.

Authority to grant or vary an application for a sex establishment licensing is delegated to Licensing Committee.

The purpose of this report is to outline the progress made and to consider a pool of suggested licensing conditions that is available to applicants and responsible authorities in respect to sex establishments.

Corporate Plan 2012-2015:

Deliver Growth: The balance of regulation against the need to protect residents is part of creating a consistent regulatory environment in which legitimate businesses can operate.

Reduce Inequalities: The Sex Establishments Licensing Policy has put in place an appropriate framework that will allow decision-makers when considering applications to reduce the impact on safety, wellbeing and local amenity on the local community.

Value to Communities: The licensing system must minimise the burdens on business and to allow communities the opportunity to influence decisions.

Implications for Medium Term Financial Plan and Resource Implications: Including finance, human, IT and land

Fees have been set by Full Council and are a reasonable reflection on the costs incurred.

Other Implications: e.g. Child Poverty, Community Safety, Health and Safety, Risk Management and Equality, Diversity and Community Cohesion:

Section 17 of the Crime and Disorder Act 1998 puts a statutory duty on every Local Authority to exercise its various functions with due regard to the need to do all that it reasonably can do to prevent crime and disorder in its area.

The Policy has a key role in protecting workers in sex establishments and reducing the risk of sexual offences linked to the operation of sex establishments.

An Equalities Impact Assessment has been completed with no significant findings

Recommendations & Reasons for recommended action:

That Members consider this report and to:

Note the contents of the Sex Establishments Licensing Policy.

To adopt the pool of licensing conditions that will provide a resource for Members during the consideration of applications or any other decision-making in respect to sex establishments.

Authority is delegated to officers to amend the pool of licensing conditions as appropriate in consultation with the Chair of Licensing Committee.

Alternative options considered and reasons for recommended action:

The pool of conditions provides applicants and responsible authorities with a common resource to assist in applying a consistent approach when considering conditions to be attached to a licence. Failure to adopt this pool of licensing conditions will not affect the decision-making process but it would mean that Members would not have access to the same resource.

Background papers:

[Sex Establishments Licensing Policy](#)

Sign off:

Fin		Leg	AG/15884 /18.10.12	HR		Corp Prop		IT		Strat Proc	
Originating SMT Member: Anthony Payne											
Have you consulted the Cabinet Member(s) named on the report? Yes											

1.0 Introduction

1.1 On the 30 January 2012 Full Council resolved to adopt Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (the Act) effective from the 5 March 2002. This enables the Council to regulate premises, known as sexual entertainment venues such as lap-dancing clubs, to the same standards as already apply to sex shops and sex cinemas.

The Policing and Crime Act 2009 amended Schedule 3 of the Act to include a new classification of premises 'Sexual Entertainment Venues'.

A sexual entertainment venue is defined 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).'

1.2 The new legislative controls will strengthen the role that local communities can play in deciding whether a sex establishment venue is appropriate for a particular locality and allow the Licensing Authority to prescribe standard conditions on grounds not covered by the Licensing Act 2003 e.g. location, hours, display of adverts and the visibility of the interior of the premises.

1.3 In determining the fees to be charged, Officers have had regard to the European Services Directive: Guidance for Local Authorities and LACORS Guidance on the impact of the Services Directive on councils setting and administering local licence fees. The fees have been based on a full cost recovery basis. Full Council resolved that the following fees and charges will be applied

- Application Fee £3,900
- Variation Fee £800
- Annual Renewal Fee £3,200
- Transfer Fee £750

1.4 Premises which provide relevant entertainment on an infrequent basis are not defined as sexual entertainment venues under Schedule 3 the Act and will continue to be regulated under the Licensing Act 2003. These are premises that provide relevant entertainment on no more than 11 occasions within a 12 month period, with one month between events and each event must not be longer than 24 hours. Any premises that provide relevant entertainment on more occasions, more frequently, or for a longer period of time than is permitted under this exemption will be operating as a sexual entertainment venue and will have committed an offence under Schedule 3 the Act unless, they hold a sexual entertainment licence or the authority has waived the requirement for such a licence.

2.0 Sex Establishments Licensing Policy

2.1 On the 30 January 2012 the Council also resolved to adopt a Sex Establishments Licensing Policy which provides the framework within which all applications will be considered, the policy is attached marked Appendix A. The Policy outlines that Members will have regard to the licensing objectives in the determination of applications and where any conditions are attached to a licence. The licensing objectives are as follows:

- The prevention of crime and disorder
- The protection of safety, health or public decency
- The prevention of nuisance

- The protection of children from harm
- Protecting the nature, amenity and character of a neighbourhood

2.2 Schedule 3 of the Act allows the Council to refuse applications on the grounds related to an assessment of the 'relevant locality', which is defined in relation to premises is the locality where they are situated. The policy states that 'locality' is not defined on a map with a finite arbitrary boundary, but is intended to be a virtual boundary that has regard to neighbourhoods, natural boundaries, postal districts and local precedents. The Council will consider it unsuitable to have a sex establishment located within an inappropriate distance from, for example, a resident area, schools, play parks and places of worship. In addition it might be relevant that a licensed premises is 'on the way to the' local shops, school or places of worship.

2.3 Schedule 3 of the Act also allows the Council to determine a number of sex establishments in a specific locality i.e. quantity limit. Having regard to the relevant locality criteria the Council has determined that only Union Street and the City Centre are suitable for the provision of sex establishments and have determined the following quantity limits.

Location	No of Sex Shops/Cinemas	No of Sexual Entertainment Venues
Union Street	1	2
City Centre	1	Nil

3.0 Determination of Applications

3.1 The Act provides a transitional period where existing operators can apply for licences under the new laws. Following the adoption of Schedule 3 of the Act existing operators have the opportunity to make application for a licence under the new provisions between the 5 March 2012 (1st appointed day) and the 5 September 2012 (2nd appointed day).

All applications from existing and new applicants will be considered together at the same hearing.

The transitional arrangements are set out in the Sex Establishments Licensing Policy attached marked Appendix 3 within the licensing policy (Appendix A of this report).

3.2 The main factors to be considered during this transition period are as follows;

- If an existing operator is granted a licence it will take effect on the 5 March 2013 the date known as the 3rd appointed day.
- If a new applicant is granted a licence it will take effect immediately.
- Where a licence for an existing operator is refused, that operator will be entitled to continue to provide relevant entertainment until the 3rd appointed day (5 March 2013) or the determination of any appeal against the refusal to grant a licence.
- Where an existing operator who falls within the scope of Schedule 3 has not applied for a licence by the 2nd appointed day, they are entitled to continue to operate until the 3rd appointed day.

3.2 Officers from the licensing authority and licensing police team have visited a number of operators who were considered may fall within the new definition of a 'sexual entertainment venue' to explain the transitional arrangements and supply information to enable them to submit a valid application by the 2nd appointed date. It is expected that Members will consider applications in November 2012.

3.3 Where an existing business applies for a sexual entertainment licence they have limited rights to continue trading even though it may not completely accord with the aspirations and expectations set out in the Council's new policy. A balance must be struck between the achievement of the licensing objectives and human rights so any decision-making is rational, necessary and proportionate in respect to the promotion of the licensing objectives.

4.0 Pool of Licensing Conditions

4.1 Officers have developed a pool of licensing conditions for applicants and responsible authorities that provide a common resource to assist in applying a consistent approach when considering conditions to be attached to a licence. Officers believe that Members should have access to the same document when considering applications or any other decision-making. The draft pool of licensing conditions is attached to this report marked Appendix B.

4.2 A pool of conditions will provide a greater degree of flexibility than standard conditions. The range of potential sexual entertainment venues would make it very difficult to draft a useable and consistent set of standard conditions. Officers believe that a pool of conditions will allow a level of consistency to be provided by attaching proportionate and targeted conditions to the licence.

5.0 Conclusions

5.1 The adoption of a pool of licensing conditions will provide Members with a framework where decision-making is rational, necessary and proportionate in respect to the promotion of the licensing objectives

SEX ESTABLISHMENTS LICENSING POLICY

Effective date: 5 March 2012

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INTRODUCTION

The City Of Plymouth is the second largest City on the south coast of England and, after, Bristol, the largest in the South West with a residential population in the region of 256,700. Looked upon as the regional capital of Devon and Cornwall, Plymouth has a rich combination of heritage and natural beauty in what is a thriving maritime city that attracts millions of visitors.

The City is located in an area of outstanding beauty, with the Dartmoor National Park to the north, the natural harbour of Plymouth Sound to the south and the rivers Plym and Tamar on either side. Plymouth's rich history and maritime heritage, combines the advantages of city living with the benefits of having the diverse countryside and coastline of Devon and Cornwall on its doorstep.

Plymouth City Council employed the world-renowned architect David Mackay and the 'Mackay Vision' are embedded in the on-going re-development of Plymouth. It is likely that over the next twenty years it is reasonable to expect that the population of Plymouth could rise to between 300,000 - 350,000 due to urban expansion.

This Licensing Authority recognises that the provision of entertainment is a major contributor to the economy of the City, attracting tourists and visitors, making for a vibrant City, which in turn continues to be a major employer. Commercial occupiers of premises have a legitimate expectation of an environment that is attractive and sustainable for their businesses balanced by the needs of residents and views of the Council.



SCOPE AND PURPOSE

The Council recognises and values the communities' views and opinions. The government has amended controls on the legitimate operation of sex establishments and that such businesses are a legitimate part of the retail and leisure industry. The Council is not able to take a moral view on sex establishments.

This policy statement has amongst other things, four main purposes;

- To inform applicants of the parameters within which the Council will make licensing decisions.
- To provide guidance to local residents and businesses of the boundaries within which the Licensing Authority will make licensing decisions.
- To provide Members of the Licensing Committee with a decision making framework.
- To support the Licensing Authority if it has to demonstrate in a court of law how it arrived at its licensing decisions.

Plymouth City Council resolved to adopt Schedule 3 of the Local Government (Miscellaneous) Provisions Act 1982 (as amended) to come into effect on the 5 March 2012, providing that anyone wishing to operate a "sex establishment" within the City must first obtain a licence from the Council.

This policy sets out the principles that the Council will apply when making decisions relating to the operation of sex establishments. It outlines the control measures that the Council will consider prior to licensing a sex establishment including guidance on the quantity limits to be applied in defined areas. It is the Council's intention to facilitate well run and managed businesses with licence holders displaying sensitivity to the impact of their premises on local residents.

All applications for new, variation or transfer of sex establishment licences outlined in this policy will be considered by the Licensing Committee or Licensing Sub-Committee as the committee responsible for determining applications at a public hearing, or officers where appropriate delegated powers have been granted.

A 'sex establishment' means a 'sex shop', a 'sex cinema' or a 'sexual entertainment venue'. 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.

The definitions of each type of sex establishment can be found in Appendix I

Appendix 3 contains transitional provisions and is contained only for guidance and to make this document as comprehensive as possible

LICENSING OBJECTIVES

The Council will expect applicants to submit applications and where a licence is granted operate their businesses, to prevent or minimise its impact on;

- The prevention of crime and disorder
- The protection of safety, health or public decency
- The prevention of nuisance
- The protection from children from harm
- Protecting the nature, amenity and character of a neighbourhood

These licensing objectives will be taken into account when determining an application and any conditions attached will be necessary and designed to achieve the licensing objectives. Applicants must satisfy the Council of how they will promote the licensing objectives. A copy of the conditions may be required to be prominently displayed on the premises for the use of employees, workers and patrons.

Guidance on the issues to be considered is below.

Prevention of Crime and Disorder:

In accordance with Section 17 of the Crime and Disorder Act 1998 the Council is under a duty to exercise its functions with due regard to the likely effect on, and the need to do all it reasonably can to prevent, crime and disorder in its areas. The possible crime and disorder implications are clearly relevant factors in the consideration of all applications. In giving due regard to these possible implications members will consider and weigh up all the information available and representations made, including those from the public and other relevant authorities.

Applicants should consider the following control measures as examples of good practice that may be considered as part of their application.

- Use of appropriate numbers of security personal and stewards ensuring effective controls at all times
- Training staff in crime prevention measures
- Membership requirements where appropriate
- Use of CCTV inside of all areas to which the public have access and the outside areas of the premises, ensuring digital systems comply with Home Office and Information Commissioners Office (ICO) minimum requirements.
- Quality of supervision and surveillance in premises
- Regular checks by management and door supervisors of all public areas including toilets
- Assessment of customer profile ensuring effective management of customers both inside premises and in outside smoking / external seating areas
- Anti-discriminatory policies and practice covering e.g. homophobia, racism and hate crime
- Awareness of drink spiking
- Zero tolerance drug policies including the appropriate use of searching and drug safes to combat drug crime
- Active participation in club/pub watch schemes
- Maintenance of comprehensive staff records and training records
- Clear published policies regarding the standards of behaviour expected from staff and customers

Protection of Safety, Health and Public Decency

The operation of any sex establishment should not prejudice the safety or health of anyone, including any performers. In addition the presence and operation of a sex establishment must not adversely affect the public decency and behaviour of residents or patrons. Applicants should consider control measures that will address the following factors;

- The health, safety and wellbeing of any performers, e.g. secure access and egress, adequate changing facilities, internal CCTV.
- Provision of information to performers regarding support groups for those working in the sex industry.
- Clear policies relating to the prevention of exploitation of vulnerable adults, drug, alcohol and substance misuse
- Employees to receive training approved by Plymouth Safeguarding Children Board on the identification of potential exploitation or trafficking of vulnerable adults and to notify the Police of concerns
- The health, safety and wellbeing of any patrons
- Maintenance of acceptable behaviour of patrons
- Positive messages regarding sexual health
- Active participation in schemes to reduce and prevent sexual violence and maintenance of policies in respect of same
- The external appearance and advertising of the business will not overtly alert passersby to the presence and nature of the business

Prevention of Nuisance

Any commercial activity has the potential to create nuisance whether by noise, litter or anti-social behaviour from the operation of the business or the activities of patrons. Applicants should have regard to the following factors;

- The nature and hours of operation
- The location of premises and character of the surrounding area in relation to the proximity to residential and other noise sensitive premises
- Latest admission times
- Measures for the limitation of noise emissions from the premises. These may include noise limitation devices, sound insulation, the installation of acoustic lobbies and double glazing and the installation of air quality management systems.
- Measures to deal with queuing outside the premises
- Effective management and control of outside areas i.e. smoking areas
- Measures to deal with dispersal of customers from the premises including the employment of door supervisors, use of dedicated taxi firms, notices in the premises requesting customers to respect neighbours

Protection of Children from Harm:

The operation of any sex establishment should not prejudice the safety of children and applicants should have regard to following factors that may be used to protect children from harm;

- Premises to have a policy relating to the protection of children from harm
- No unsuitable external promotion or advertising of the premises whilst the premises is closed e.g. flashing neon signs or similar

- Premises to operate a Challenge 21/25 proof of age scheme before patrons access the premises. Employees must receive training on the operation of the proof of age policy and keep records of such training.
- Records to be kept of refusals and incidents
- Employees to receive training on the identification of potential exploitation or trafficking of children and to notify the Police of concerns
- Prominently displayed signs barring under 18 year olds
- Screening or obscuring of windows, doors and other openings so that the interior of the licensed premises and the displays of articles sold at the premises shall not be visible at any time to persons outside the building
- Goods to be discreetly wrapped before leaving the premises and when being delivered
- Use of CCTV inside of all areas to which the public have access and the outside areas of the premises, ensuring digital systems comply with Home Office and Information Commissioners Office (ICO) minimum requirements.
- The external appearance and advertising of the business will not overtly alert children to the presence and nature of the business

Protecting the Nature, Amenity and Character of a Neighbourhood

The Council does not wish for an establishment to be inappropriately located or for any neighbourhood or locality to become dominated by the presence of sex establishments. Equally the Council recognises the need to encourage the promotion and development of a broad range of entertainment and leisure opportunities. When considering applications decisions will balance the needs of the community with the needs of the applicant.

The Council will consider the following factors and expect applicants to develop management strategies that have regard to the locality including nearby sensitive buildings or activities.

- The external appearance of premises
- Sightlines and surveillance
- Lighting and ability to monitor in relation to crime and disorder
- External advertising on buildings
- Hours of operation
- Nature of activities
- The concentration of premises licensed as Sex Establishments in a particular neighbourhood or locality

RELEVANT LOCALITY STATEMENT

Schedule 3 of the Act allows the Council to refuse applications on grounds related to an assessment of the “relevant locality”. A licence can be refused if either, at the time the application is determined the number of sex establishments, or sex establishments of a particular kind, in the relevant locality is equal to or exceeds the number that the Council considers appropriate for that locality; or that a sex establishment would be inappropriate having regard to the character of the relevant locality, the use of any premises in the vicinity or the layout, character or condition of the premises. Nil may be the appropriate number.

The Council does not consider it appropriate to define the entire city as having the benefit of a quantity limit. A ‘locality’ is not defined on a map with a finite arbitrary boundary but it is intended to be a virtual boundary that has regard to neighbourhoods, natural boundaries, postal districts and local precedents. Material decisions that might be relevant to a local community could include a licensed premises that is ‘on the way to the’ local shops, school or places of worship.

In relation to a vehicle, vessel or stall the locality under consideration will be where it is desired to use it as a sex establishment.

The Council will consider it unsuitable to have a sex establishment located within an inappropriate distance from;

- A residential area
- Premises, areas or access routes to such premises or areas which are designed for or attract children or families, such as; schools, play areas, parks, children's centres, youth clubs, nurseries or leisure facilities and other similar sensitive premises
- Places of public religious worship
- A shopping area aimed at attracting residents and visitors to the City
- Community facilities or public buildings
- Historic buildings, cultural attractions, educational establishments or areas and tourist attractions
- A locality with a history of specific social difficulties
- A gateway to an identifiable locality
- Where there is already a sex establishment

An inappropriate distance will be dependant on the type, size, appearance, position and operation of the premises when considered against the specific nature of the locality in question.

Given the above criteria it is considered that currently the only areas considered as suitable for the provision of certain defined licensed sex establishment premises are the areas known as;

- Union Street
- City Centre

Any applications in these areas are still subject to the requirements identified in this policy

All other parts of the City are generally considered unacceptable, although each case would be considered on its own merits having regard to the specific detail of the application. For example; it may be appropriate based on the individual merits of the application to grant a licence in a commercial area where there are no residential properties, such as on a business park.

QUANTITY LIMIT STATEMENT

The Act allows the Council to determine a number of sex establishments in a specific locality. This can include determining that the appropriate number is nil. The Council considers that there is an over-riding public interest to justify quantity limits for the areas known as Union St and the City Centre to avoid an excessive build up of sex establishments, thereby undermining the character and nature of the designated areas.

Whilst applications will be determined based on their individual merits there will be a presumption against granting additional licenses in areas where the number considered appropriate for that locality have already been granted.

The Council will not take account of commercial need. This is a matter for market forces and may be a relevant consideration for planning applications. The existence or absence of suitable planning approval is not a relevant consideration for the Council, but is a matter for the applicant.

For each of the following areas the number of sex establishments considered as appropriate is;

Location	No of Sex Shops/Cinemas	No of Sexual Entertainment Venues
Union Street	1	2
City Centre	1	Nil

For all other localities the appropriate number will be nil.

DETERMINATION OF APPLICATIONS

Existing Businesses

Those businesses either licensed or undertaking licensable activities prior to the adoption of this policy (see transitional arrangements) may apply under the new licensing regime. Existing businesses have limited rights to continue trading even though it may not completely accord with the new policy aspirations and expectations. A balance must be obtained between the achievement of the licensing objectives and human rights; these being Article 1, Protocol 1 of the European Convention on Human Rights (peaceful enjoyment of possessions) and Article 10 (Freedom of expression). Any decision to refuse an existing licence must be rational, necessary and proportionate for the promotion of the licensing objectives. Anyone wishing to object to the grant of a licence for existing businesses must provide supporting evidence to demonstrate the impact on the locality with reference to the licensing objectives.

Applications for the grant, variation, renewal or transfer

The application process is set out in Appendix 2.

The transitional arrangements for the introduction and implementation of this policy for the inclusion of sexual entertainment venues within Schedule 3 of the Act and for guidance are set out in Appendix 3 Please refer to the Act for final interpretation.

The Council will expect applicants to submit applications and where granted, operate their businesses to prevent or minimise an impact on the licensing objectives;

- Crime and disorder
- The protection of safety, health or public decency
- The prevention of nuisance
- The protection from children from harm
- Protecting the nature, amenity and character of a neighbourhood

When considering an application for grant, renewal or variation, the Council will in particular consider the;

- (a) Type of activity
- (b) Duration of proposed licence
- (c) Proposed hours of operation
- (d) Layout, appearance and condition of the premises
- (e) The use to which premises in the vicinity are put

- (f) The character of the locality in which the premises are situated or relevant development or strategic plans adopted by the Council
- (g) Levels of recorded crime and disorder in the area

The Council will expect the applicant to have undertaken reasonable steps to consult local residents, business and community groups in relation to applications for grant, or variation of the terms or conditions of a licence. The nature and extent of consultation will depend on the history of a particular premises and the perceived likelihood of problems occurring and objections being received.

Where an application is to renew an existing sex shop, sex cinema or sexual entertainment venue the Council will have regard to the previous history of the premises, and material changes to the operation of the premises, any non-compliance, any planning policies and regeneration factors and any other matters considered material to the application.

When considering all applications the Council will take into account:

- (a) Past demonstrable adverse impact from the activity
- (b) Whether appropriate measures have been agreed and put into effect by the applicant to mitigate any adverse impacts.
- (c) Premises that were previously granted a licence cannot automatically expect re-issue where, for example, the medium and long term aspirations for the locality have changed and the continuation of that licensed premises would undermine the revised aspirations of that locality and as a consequence re-issue would not be justified.

Fitness of Applicant

An applicant must be a fit and proper person to hold a licence. In determining suitability for a new licence or a transfer the Council will have regard to;

- (a) Previous knowledge and experience of the applicant and
- (b) Any evidence of the operation of any existing or previous licence held by the applicant, including any licence held in any other Licensing Authority and
- (c) Any report about the applicant and management of the premises received from statutory objectors/responsible authorities and
- (d) Any criminal convictions, cautions, warnings or information supplied by the Police or other agencies.

Length of Licence

Licences will generally be granted for a duration of 1 year.

Waivers

The Council does not consider it appropriate for waivers to be issued except in extreme circumstances.

Notices

Applicants for sex establishments must offer proof of giving public notice of the application in a local newspaper. The advertisement must be no later than 7 days after the date the application is made.

Where it relates to a premise a notice must be displayed on or near the premises in a place where it can conveniently be read by members of the public. The notice must be in place for 21 days beginning with the date the application was made.

All notices must be in the form prescribed by the Council at that time. Where a separate application is being made under the Licensing Act 2003 a separate notice will be required.

Applications for any sex establishment must be the subject of separate public notices and advertisements and not linked to any premises licence application. This is to ensure that the local community has every opportunity to be aware of the specific submission of an application within the terms of Schedule 3 of the Act.

Fees

The Act states that applicants shall pay a reasonable fee for the grant, renewal, variation or transfer of a sex establishment licence. The City Council will set fees on the basis of full cost recovery.

Hours of Opening

The Council will apply hours of operation that are commensurate to the existing use of the area and its effect on the locality. There shall normally be no operation of licensable activities on Sundays and Good Friday (06.00 am to Midnight), Christmas day or Easter Sunday. Alternative opening restrictions may be put into place dependant on the character of each locality and representations received

Disability Discrimination

The Disability Discrimination Act 1995 introduced measures to tackle discrimination encountered by disabled people in the areas of employment, access to goods, facilities and services and the management, buying or renting of land or property. Applicants will be expected to:

- Make reasonable adjustments for disabled people, such as providing extra help to make changes to the way they provide their services
- Make reasonable adjustments to the physical features of the premises to overcome physical barriers to access

The Council will have regard to the likely impact of licensing of sex establishments on disability discrimination and the requirements of the Equality Act 2010, particularly when considering the operation and management of the premises.

Sex Shop

Licenses for sex shops are required where R18 films being sold or where a significant degree of sex articles are offered for sale.

The term significant degree is not defined. When considering whether or not a licence is required the following factors will be considered;

1. The ratio of sex articles to other aspects of the business
2. The absolute quantity of sales
3. The character of the remaining business
4. Nature of the displays in the business
5. Turnover

The Council will consider any other relevant material, information or data relevant to the particular premises.

MANAGEMENT OF THE PREMISES

The Council requires all licence holders to ensure that they and their employees comply with all relevant licence conditions.

In terms of management of licensed sex establishment, the Council strongly encourages where possible and appropriate, that licence holders;

- (a) Work with statutory agencies such as the Police, and Council departments in order to create and maintain a safe environment, both within licensed premises and in the environs around them
- (b) Develop crime prevention strategies in consultation with the Police and the Council, in particular where premises are located in areas with high levels of recorded crime.

In terms of the employment of staff in licensed premises, the Council requires that all staff be appropriately trained in areas such as the legislation relating to sex establishments, any licence conditions, and any proof of age policies.

ENFORCEMENT

Once licensed, it is essential that the premises are maintained and operated so as to ensure the compliance with the specific terms of the licence and any condition attached. The Council will make arrangements to monitor premises.

The Council will work closely with all other relevant statutory bodies to ensure an efficient deployment of all personnel engaged in enforcing licensing law and inspecting licensed sex establishments, in order to ensure that resources are targeted at problem and high risk premises, whilst ensuring that all such premises meet the required standards.

Failure to maintain compliance may result in action being taken in accordance with the Council's relevant Enforcement Policies.

EXCHANGE OF INFORMATION

From time to time the Council may 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 the statutory duty of reducing crime

The name and addresses of objectors will not be disclosed to applicants or published in public reports.

POLICY REVIEW

The Council will review this policy as required by the governing legislation or when deemed necessary.

APPENDIX I

DEFINITIONS

The meanings assigned in this document have been paraphrased from Schedule 3 of the Act. The definitions are considered correct as at the date of this policy. Please refer to the Act for final interpretation.

A **'sex establishment'** means:

A 'sex shop', a 'sex cinema' or a 'sexual entertainment venue'. 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".

A **'sexual entertainment venue'** means:

"Any premises at which relevant entertainment is provided before a live audience for financial gain of an organiser or the entertainer"

'Relevant entertainment' means:

'Any live performance or 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). An audience includes an audience of one person'

For the purpose of the definitions for "sexual entertainment venue" and "relevant entertainment definitions", it does not matter whether the financial gain arises directly or indirectly from the performance or display of nudity.

'Audience' includes an audience of one person

'A 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' 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.

A **'sex cinema'** means;

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

- (a) Are concerned primarily with the portrayal of, or primarily deal with or relate to, or are intended to stimulate or encourage
 - (i) Sexual activity; or
 - (ii) Acts of force or restraint which are associated with sexual activity; or
- (b) Are concerned primarily with the portrayal of, or primarily deal with or relate to, genital organs or urinary or excretory functions, but does not include a dwelling-house to which the public is not admitted.

No premises shall be treated as a sex cinema by reason only

- (a) If they may be used for an exhibition of a film (with the meaning of paragraph 15 of Schedule 1 to the Licensing Act 2003) by virtue of an authorisation (within the meaning of section 136 of that Act) of their use in accordance with that authorisation; or
- (b) Of their use for an exhibition to which section 6 of that Act (certain non-commercial exhibitions) applies given by exempted organisation within the meaning of section 6(6) of the Cinemas Act 1985

A **'sex shop'** means:

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

- (a) Sex articles; or
- (b) Other things intended for use in connection with, or for the purpose of stimulating or encouraging -
 - (i) Sexual activity; or
 - (ii) Acts of force or restraint which are associated with sexual activity.

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.

A **'sex article'** means;

- (a) Anything made for use in connection with, or for the purpose of stimulating or encouraging
 - (i) Sexual activity; or
 - (ii) Acts of force or restraint which are associated with sexual activity; and
- (b) Anything to which the below applies.

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

To any recording of vision or sound, which

- (i) Is concerned primarily with the portrayal of, or primarily deals with or relates to, or is intended to stimulate or encourage, sexual activity or acts of force or restraint which are associated with sexual activity; or
- (ii) Is concerned primarily with the portrayal of, or primarily deals with or relates to, genital organs, or urinary or excretory functions.

APPENDIX 2

APPLICATION, CONSULTATION AND HEARING PROCEDURES

Application Process

The Licensing Section, Public Protection Service will have responsibility for processing any application having regard to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (“the Act”) , relevant statutory guidance, national and local licensing policies.

The application form and relevant documentation for the new licence, renewal, variation or transfer must be completed and returned with the appropriate fee as determined by the Council’s fees and charges. Application forms can be accessed from the Council’s Licensing website or are available upon request from the Licensing Section.

In keeping with the requirements of the EU Services Directive applications may be made electronically. For further information, please visit the Council’s licensing website or contact the Licensing Section.

It should be noted that as a result of the Provision of Services Regulations 2009 tacit authorisation of an application does not apply as different arrangements are in place with regard to the notifications of determination of an application.

A notice of the application must be advertised both on or near the premises and in a local newspaper circulating within the area of the premises i.e. Evening Herald. The notice must clearly identify the premises to which the application relates. Sample prescribed notices are available on the website. The notice on or near the premises shall be displayed for 21 days beginning with the date of the application and in a place where it can be conveniently read by the public.

The notice in the newspaper shall be published no later than 7 days after the date of the application.

The Council recognises that there will be some ‘cross over’ in the management and control of the premises having regard to the requirements of the Licensing Act 2003. The Council will expect the applicant to have considered the factors and to have drawn comparisons where appropriate in promoting the licensing objectives. This is particularly relevant where the premises already has or is applying for a premises licence.

Applicants are advised to consider the Council’s pool of conditions

The applicant shall use the prescribed form published by the Council for any application and supply the details requested. These details may include:

Site plan (1:1250)

Premises plan (1:50) showing all entrance and exit points, all parts used and the licensed areas suitable marked.

Drawings of the elevations including signage and advertising

Personal / company details

Details of previous convictions

Consultation

A copy of the application form and supporting documentation must be sent to the Chief Officer of Police within 7 days of the date the application was given to the Licensing Authority.

The Council may consult with the following authorities to ensure that all relevant information is available when considering an application;

- Devon & Cornwall Police
- Devon and Somerset Fire & Rescue Service
- Public Protection Service, Plymouth City Council

- Planning Department, Plymouth City Council
- Crime Reduction Safety Partnership
- Child Protection Board

The Council will consult any other organisation it deems relevant to a particular application. Relevant Ward Councillors will be notified of all applications for grant, renewal and transfer of licences and the variation of conditions within their Ward, and also those on or near the Ward boundary.

Representations

Representations may be made to an application by any person, business, community group or representative of any of the above who live in the vicinity and /or have a reasonable expectation to be in a position to comment. The final arbiter of whether any representation is relevant having regard to the specific application will be the Licensing Officer duly authorised by the Council to process the application.

A relevant representation will state the grounds on which the objection/positive representation is made and will need to be made in the following terms:

- Be made in writing
- 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 representation.
- Link the representation as to how the licensing objectives would be compromised

Representations may only be made within the period of 28 days following the date on which the application was given to the Council.

The Council will not normally consider any representation that does not contain the name and address of the person making it. Any personal details received will not be disclosed in the Committee report

Representations received that are frivolous or vexatious or which relate solely to moral grounds is likely to be given lesser weight.

Where representations are made the Licensing Authority will provide copies to the applicant.

Where objections are made and not withdrawn, a hearing before a Licensing Sub Committee will normally be held within 20 working days of the end of the period during which representations may be made, unless all parties agree that a hearing isn't necessary. At this point all interested parties will have the opportunity to attend.

Decision Making

The Council recognises that the licensing of sex establishments is controversial and stimulates very emotive arguments. However, the Council does not have the right to, and will not, have regard solely to the morality of sex establishments. Its approval or disapproval of sex establishments is not a matter that can be considered. Consequently, objections on the grounds that sex establishments should not be allowed only on moral grounds will not be considered.

Hearings

All applications for new, variations or transfer of sex establishment licences will be considered at a public hearing by Licensing Committee or Licensing Sub-Committee as the committee responsible for determining applications or officers where appropriate delegated powers have been granted.

With regard to renewals where the appropriate application procedures have been followed and where no relevant representations have been submitted officers will normally have delegated authority to process the application and where appropriate, issue the licence.

Representations will be considered by Committee. There are no explicit provisions for objectors to be heard, but the Council has discretion on this matter.

Individuals or responsible authorities will only normally be afforded a hearing if the Chair is satisfied that;

- (a) A relevant written objection was received during the statutory 28 day consultation period
- (b) The objector will be confined to putting forward only those points that are relevant to consideration of the grounds of refusal and which have been notified in writing to the applicant
- (c) Objectors and applicant will be heard on the same occasion as the hearing
- (d) The applicant will be afforded the opportunity to address the committee and respond to any enquiries members may have.

Members may adjourn to private session to discuss the case before making a decision. A verbal decision will normally be given that day with a written decision sent within 5 working days stating the Committee's reasons for that decision.

The Committee after due consideration may decide to grant or refuse the licence under the provisions in Schedule 3 of the Act, or may grant a licence on such terms and conditions and subject to such restrictions as it may specify.

Conditions may be imposed for example to control:

- (a) The external appearance of the premises;
- (b) The operating hours of the business;
- (c) The visibility of the interior of the establishment to passers by;
- (d) Any change of use of any kind of sex establishment to another;
- (e) Displays or advertisements on or in such establishments;
- (f) CCTV provision;
- (g) The employment of suitable management & staff.
- (h) Restrictions on age of customers
- (i) Suitable proof of age schemes or policies

A pool of conditions will be used to provide conditions that are proportionate and necessary for the operation, management and control of the particular premises. Officers will recommend suitable conditions for each application.

Grounds for Refusal

Mandatory Refusal - under the provisions in Schedule 3 of the Act, the Council must refuse a licence for the following reasons

- (a) To a person under the age of 18; or
- (b) To a person who is disqualified by virtue of the revocation of a previous licence in the area within the preceding 12 months; 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 six months immediately preceding the date when the application was made, or
- (d) To a body corporate which is not incorporated in an EEA State; or
- (e) To a person who has been refused an application for a licence for the premises within the preceding 12 months, unless the refusal has been reversed on appeal.

Discretionary refusal – the Council may refuse to grant a licence on one or more of the following grounds:

- (a) That the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
- (b) That if the licence were to be granted the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant of a licence if he made the application himself;
- (c) That the number of sex establishments in the relevant locality at the time the application is made is equal to or exceeds the number which the authority consider is appropriate for that locality (the number may be nil);
- (d) That the grant of the licence would be inappropriate, having regard to:
 - (i) The character of the locality where the premises are situated; or
 - (ii) The use to which any premises in the vicinity are put; or
 - (iii) The layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

Appeals

An applicant for the grant of a licence whose application is refused has the right of appeal to the Magistrates' Court within 21 days. However, if refusal was on the grounds specified in paragraphs above then no right of appeal is available under this legislation. A person whose application is refused due to these reasons may attempt to invoke a judicial review of the Council's use of its discretion in coming to a decision. Those making representation, objecting to or supporting an application, have no right of appeal under this piece of legislation.

APPENDIX 3

TRANSITIONAL PROVISIONS

The legal aspects of the transitional provisions are set out in the Policing and Crime Act 2009 (Commencement No1 and Transitional and Saving Provisions) (England) Order 2010 (The transitional Order) and the legal aspects of the transitional provisions are set out in the Policing and Crime Act 2009 (Consequential Provisions (England) Order 2010 (The Consequential Order)

The 1st Appointed day will be 5th March 2012

The 2nd Appointed day will be 5th September 2012

The 3rd Appointed day will be 5th March 2013

Existing Operators

Existing operators who immediately before the 1st Appointed Day have a 2003 Act licence and lawfully use that premises as a sexual entertainment venue under that licence will be allowed to continue to provide relevant entertainment until the 3rd Appointed Day or the determination of any application submitted before that time (including any appeal against the refusal to grant a licence), whichever is the later.

New Applicants

New applicants who do not meet the criteria for an existing operator will not be able to operate any activities which require a licence under this policy until the appropriate licence has been granted.

Determination of Applications received on or before the 2nd Appointed Day

Applicants can submit applications from the 1st Appointed Day onwards. Any applications received after the 1st Appointed Day but before the 2nd Appointed Day shall be considered together, so that in the case of a locality with a quantity limit applications are considered on their merit and not on a first come first served basis.

No applications will therefore be determined before the 2nd Appointed Day.

If a new applicant is granted a licence it will take effect immediately. If an existing operator is granted a licence it will take effect on the 3rd Appointed Day.

Determination of Applications received after the 2nd Appointed Day

Applications will be considered when they are made but only once all applications made on or before that date have been determined. If a new applicant is granted a licence it will take effect immediately. If an existing operator is granted a licence it will take effect on the 3rd Appointed Day or if later the date the application is determined.

CONTACT POINTS

For advice on any aspect of this policy please contact:

Licensing Section, Public Protection Service, Plymouth Council, Floor 6 Civic Centre, Plymouth, PL1 2AA

Tel: 01752 304141

Fax: 01752 226314

Email: licensing@plymouth.gov.uk

Police Licensing Team, Licensing Department (West), Launceston Police Station, Moorland Road, Launceston, Cornwall PL15 7HY

Tel: 01566 771309

Fax: 01566 771388

Email: licensingwest@devonandcornwall.pnn.police.uk

Child Protection Team, Social Services, Ginkgo House, 156 Mannamead Road, Plymouth, PL3 5QL

Tel: 01752 306340

Fax: 01752 306344

Email: childprotect@plymouth.gov.uk

Devon & Somerset Fire & Rescue Service, West Devon Headquarters, Glen Road, Plympton, Plymouth, PL7 3XT

Tel: 01752 333600

Fax: 01752 333640

Email: westfiresafety@devfire.gov.uk

Environmental Health Service, Public Protection Service, Plymouth Council, Floor 6, Civic Centre, Plymouth, PL1 2AA.

Tel: 01752 304141

Fax: 01752 226314

E-mail: public.protection@plymouth.gov.uk

Planning & Regeneration Service, Plymouth Council, Floor 9 Civic Centre, PL12AA

Tel: 01752 304366

Email: planningconsents@plymouth.gov.uk

Plymouth Community Safety Partnership, Floor 8, Civic Centre, Plymouth, PL1 2AA

Tel: 01752 315788

E-mail: plymcomsafety@plymouth.gov.uk

POOL OF LICENSING CONDITIONS

Sex Establishments

This pool of conditions is available for use by applicants, responsible authorities and Licensing Committee in applying conditions of licence in respect to a Sexual Entertainment Venue, Sex Shop or Sex Cinema.

This pool of conditions is not exhaustive and may be altered, amended or varied as appropriate as the need arises.

This document does not form part of the Sex Establishments Licensing Policy

Plymouth City Council are the Licensing Authority in respect to the sex establishments within its administrative district.

Sexual Entertainment Venues

A **'sexual entertainment venue'** is defined as:

'any premises at which relevant entertainment is provided before a live audience for financial gain of an organiser or the entertainer'

Relevant entertainment is defined as:

'any live performance or any live display of nudity which is of 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). An audience includes an audience of one person.'

A **performer** is defined as any person operating at a sexual entertainment venue who carries out any activity falling within the definition of relevant entertainment

General

- 1.1 The licence or clear copy shall be prominently displayed at all times to be readily and easily seen by all persons using the premises.
- 1.2 Relevant entertainment may only take place between the hours of XX and XX on Mondays to Saturdays inclusive.
- 1.3 Relevant entertainment will not take place on Sundays and Good Friday (6am to midnight), Christmas Day or Easter Sunday.
- 1.4 Relevant entertainment may only take place in designated areas approved by the Council as specified in the licensing conditions.
- 1.5 The license holder shall provide a copy of the House Rules to the Council for approval.
- 1.6 A clear copy of the house rules shall be clearly displayed at the reception and on each table and each bar area which shall include:
 - i) No person under the age of 18 years shall be admitted to the premises.
 - ii) There shall be no contact between a performer and customer other than an introductory handshake/kiss or when a tip is placed in their garter/armband or hand when payment is made for a performance.
 - iii) No member of the audience shall throw money or otherwise give gratuities to the performers except as permitted in ii) above.
 - iv) There shall be no participation by any member of the audience.
 - v) Customers are not permitted to photograph, record, film or electronically transmit any performance. Any person suspected of doing so will be required to leave the premises.

- vi) No customer shall accept from or give to any performer or member of staff any telephone number, business card or note.
 - vii) Customers shall remain seated whilst receiving/watching a performance of approved relevant entertainment specific to table/lap dancing.
 - viii) At all times the performer(s) will keep a minimum distance of one metre away from the customers.
 - ix) A notice stating 'any person breaching these rules will be required to leave the premises'.
 - x) Payment for a performance or other transaction will be by cash. If a credit/debit is offered by the customer it shall be taken to the duty manager or other designated person to complete that transaction. The credit/debit card will always remain in the possession of its owner.
 - xi) A price list showing all customer fees and charges shall be displayed in reception on tables and in all other relevant locations within the premises.
- 1.7 Literature is to be made available in other languages to inform foreign nationals of the absolute prohibition against physical contact between the performers and customers.
- 1.8 No displays shall be permitted, outside or in the vicinity of the premises, of any descriptions, photographs or other images that indicates that [*striptease, lap dancing, pole-dancing or table-side dancing*] takes place on the premises.
- 1.9 Relevant entertainment shall only be performed by the performers/entertainers and the audience shall not be permitted to participate.
- 1.10 No persons other than the performers engaged in the approved relevant entertainment shall be in the designated area in a state of undress.

Premises

- 1.11 The exterior of the premises must be presented in a manner appropriate for the character of the area. There shall be no advertisement or promotional material used by the premises that is unsuitable to be viewed by children, for example, by way of sexually provocative imagery. Any exterior signage shall be discreet and shall not display any imagery that suggests or indicates relevant entertainment takes place at the premises. Any external displays or advertising may only be displayed with the prior approval of the Council.
- 1.12 Any advertisement for entertainment of an adult or sexual nature will clearly and conspicuously display the words 'children will not be admitted'.
- 1.13 Any advertisement for entertainment of an adult or sexual nature will only be displayed after obtaining the approval of the Responsible Authorities (Police and Child Protection).
- 1.14 There will be no external advertising or leafleting or personal solicitation of the premises or any adult entertainment. They will cause no publication and display of obscene and indecent matter to be displayed or distributed in advertising performances being held at the premises.
- 1.15 The premises will be required to close for one hour prior to relevant entertainment commencing to enable the manager to clear the premises of any persons under the age of 18 and to ensure a full check is made that the business is operating in accordance with all relevant conditions.
- 1.16 Whilst relevant entertainment is taking place no person under the age of 18 shall be on the licensed premises and a clear notice shall be displayed at the entrance to the premises in a prominent position so it can be easily read by persons entering the premises in the following terms:
- 'NO PERSON UNDER 18 WILL BE ADMITTED'**
- 1.17 Adequate toilets, washing and changing facilities for use solely by the performers shall be provided.

Performers

- I.18 Performers shall be aged not less than 18 years of age.
- I.19 A copy of the premises licence conditions and the house rules shall be given to all performers and displayed at all times in or near the performers changing room/s.
- I.20 Performers will be required to read all the conditions of this licence and confirm by written record that they have understood and agreed the contents. A copy of this record will be available for inspection by enforcement agencies.
- I.21 There shall be no form of physical contact between customers and the performers during approved relevant entertainment other than when the performer introduces him/her at the start of the performance and again at the conclusion of the performance, or when money is placed in their garter, armband or hand.
- I.22 Lap dancing/table dancing entertainment may only be provided solely by performers to seated customers.
- I.23 No performer shall accept or give telephone numbers from/to customers or exchange personal details with customers.
- I.24 The house rules and other relevant licensing conditions will be made available in the languages to inform performers who are foreign nationals.
- I.25 No performer shall be allowed to work if they appear to be intoxicated whether by alcohol or through the use of medication or illegal substances.
- I.26 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 duty manager.
- I.27 There shall be no physical contact between dancers whilst performing.
- I.28 The performance of dancers within the premises or entertainment involving nudity or entertainment involving any sexual content will not be visible from outside the premises.
- I.29 There shall be no physical contact between the customers and performers during the performance. Whilst dancers are performing there shall be a minimum distance of one metre between the dancer and the seated customers and prominent, clear notices shall be prominently displayed stating this requirement.
- I.30 Performers shall have direct access to a dressing room without passing through or in close proximity to the audience at all times during the performance, which shall be located so as to be separate and apart from the public facilities. No person other than performers and authorised staff shall be permitted in the changing room/s.
- I.31 Dressing room(s) shall be provided and shall not be accessible to members of the audience prior to, during or after the provision of the relevant entertainment.
- I.32 During the performance of relevant entertainment the premises will operate a 'no touch policy'.
- I.33 Performers will not simulate any sex acts.
- I.34 Performers will not be permitted to work if they are in breach of the staff house rules or conditions of licence.
- I.35 Nudity will only be permitted in the areas approved for relevant entertainment.
- I.36 Performers must redress fully immediately after each performance.

CCTV

- I.39 The premises shall be equipped with CCTV installed so as to cover all areas where approved relevant entertainment and full nudity will take place and will continually record during these performances. The cameras(s) will be positioned to show all contact from the performer to the customer. Recordings shall be made available only to a police officer or duly authorised officer of the Council at the time of the request.
- I.40 CCTV must be continuously monitored by a designated member of staff whilst relevant entertainment is in progress to ensure compliance with licensing conditions and company operating policy.
- I.41 The CCTV images recorded will comply with the Information Commissioners Office (ICO) guidance document CCTV (Code of Practice) regarding the installation of CCTV and images will be retained for 28 days.
- I.42 The CCTV will be capable of being downloaded into a recognizable viewable format.
- I.43 The Police Licensing Department will be informed when the CCTV system is not working correctly within 24 hours.
- I.44 Other than recordings made in accordance with condition I.41 above, no other photographic, filming, recording or electronic transmission of performances shall take place without the prior, express written consent of the Council.

Door Supervision

- I.45 Whilst relevant entertainment takes place not less than [*number*] [*minimum two*] registered SIA Door Supervisors shall be on duty on the premises. At least one of the door supervisors employed will be female to oversee the activities of female performers and at least one door supervisor will be male to oversee the activities of male performers.
- I.46 At least *1/2/3(delete as appropriate)* licensed door supervisor(s) will be on duty at all times when relevant entertainment is available.
- I.47 A register will be maintained of the door supervisors to include the date, time and licence number of working which will be available on the premises for inspection by a police officer or duly authorised officer of the Council at the time of request.

Massage Services

- I.48 Performers are described as a person delivering massage services.
- I.49 A register of performers delivering massage services will be maintained on the premises, which will identify responsible manager at that time and the performers recording their date, hours of work, real name, stage name, date of birth and current address. The responsible manager will retain documents that confirmation the performer age (i.e. birth certificate, passport, PASS accredited identification, UP photo driving licence)

Management

- I.50 A register of performers delivering relevant entertainment will be maintained on the premises, which will identify the responsible manager at that time and the performers recording their date, hours of work, real name, stage name, date of birth and current address. The responsible manager will retain copies of all relevant documents that confirmation the performer age and right to work (i.e. birth certificate, passport, PASS accredited identification, UP photo driving licence)
- I.51 The licensee shall ensure that during the hours the premises are 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.
- I.52 The licensee shall ensure that during the hours the premise is open for business every employee can be clearly identified by means of a uniform.

- 1.53 The licensee shall inform the Council, in writing within 14 days, of any change of director, company secretary or other person responsible for the management of the premises.
- 1.54 The name of any sales person or any other person employed who deals with the public in any way must be sent to the Council for its approval together with the details required in the above paragraph, including a photograph and any other requirement made by the Council.
- 1.55 The name of the person responsible for the management of the sex establishment to be the licensee or a manager approved in writing by the Council shall be displayed upon the main entrance to the premises throughout the period during which he is responsible for the conduct of the premises.
- 1.56 The licensee shall retain control over all parts of the premises and shall not let, license or part with possession of any part of the premises.
- 1.57 The licensee shall maintain good order in the premises.

Age Verification

- 1.58 A challenge 21/25 proof of age policy will be adopted and all staff will be trained in the procedures.
- 1.59 Any person who looks or appears to be under the age of 21/25 Years shall be asked to provide identification that they are over 18 years. The following are the only forms of identification acceptable:
- UK photo driving licence
 - Passport
 - PASS accredited identification
 - Armed services identification

Challenge 21/25 signage shall be positioned in reception/entrance alerting customers to this policy.

- 1.60A The licence holder or manager(s)/supervisor(s) must ensure that all staff are given proof of age induction prior to the commencement of employment (this will also apply to existing staff who have not undergone induction training).
- 1.60B All training will be documented and available for inspection by a police officer or duly authorised officer of the licensing authority.

Staff Training

- 1.61 The licence holder and manager(s)/supervisor(s) must undertake structured child sexual exploitation awareness raising training within 3 months of the awarding of a licence. The training must be undertaken in accordance with the Plymouth Safeguarding Children Board's approved training programme (with refresher training every 3 years).
- 1.62 The licence holder must submit evidence of the child sexual exploitation awareness training that has been undertaken for new staff, appointed since the issue of the last licence. This evidence must be submitted as part of any renewal application.
- 1.63 The licence holder or manager(s)/supervisor(s) must ensure that all staff are given sexual exploitation awareness induction prior to the commencement of employment (this will also apply to existing staff who have not undergone induction training).
- 1.64 On request, the Plymouth Safeguarding Children Board will provide a syllabus of the subject areas to be covered by any child sexual exploitation awareness training course.
- 1.65 All costs associated with the provision of any training course will be the responsibility of the licence holder.

Sex Shops

Hours of Opening

- 2.1 Except with the prior consent of the Council the premises shall not be open to the public before 09:00 and shall not be kept open after 20:00
- 2.2 Except with the prior consent of the Council the premises shall not be open on Sundays, Good Friday, Easter Sunday, Christmas Day, Bank Holidays or other Public holidays.

Conduct and Management of Sex Shops

- 2.3 The licensee shall inform the Council, in writing within 14 days, of any change of director, company secretary or other person responsible for the management of the premises.
- 2.4 The name of the person responsible for the management of a Sex Shop or a manager approved by the Council shall be prominently displayed within the Sex Shop throughout the period during which he is responsible for its conduct.
- 2.5 The licensee shall maintain a daily register in which he shall record the name and address of any person who is to be responsible for managing the Sex Shop in his / her absence and the names and addresses of those employed in the Sex Shop. The register is to be completed each day within thirty minutes of the Sex Shop opening for business and is to be available for inspection by the Police and by authorised officers of the Council.
- 2.6 The licensee shall retain control over all portions of the premises and shall not let, licence or part with possession of any part of the premises.
- 2.7 The licensee shall maintain good order in the premises.

User

- 2.8 A Sex Shop shall be conducted primarily for the purpose of the sale of goods by retail.
- 2.9 No change of use of any portion of the premises from that approved by the Council shall be made until the consent of the Council has been obtained.
- 2.10 No change from a Sex Shop to a Sex Cinema or from a Sex Cinema to a Sex Shop shall be effected without the consent of the Council.
- 2.11 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 Shops

- 2.12 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 maximum prices being charged.
- 2.13 All printed matter offered for sale, hire, exchange or loan shall be available for inspection prior to purchase and a notice to this effect is to be prominently displayed within the Sex Shop.
- 2.14 No film or video film shall be exhibited, sold or supplied unless it complies with the Video Recording Act 1974 and is a reproduction authorised by the owner of the copyright of the film or video film so certified.
- 2.15 The licensee shall without charge, display and make available in the Sex Shop such free literature on counselling on matters related to sexual problems published by any organisation 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 Shop

- 2.16 All goods offered for sale, hire, exchange or loan shall be available for inspection prior to purchase and a notice to this effect is to be prominently displayed within the premises.
- 2.17 No video film shall be exhibited, sold or supplied unless it has been passed by the British Board of Film Classification and bears a certificate to that effect.

External Appearance

- 2.18 The entrances to the premises shall be constructed of a material and/or covered with a material which will render the interior of the premises invisible to passers by.
- 2.19 Windows and openings to the premises shall be obscured with a material which will render the interior invisible to passers by.
- 2.20 No display or advertisement or any matter shall be exhibited so as to be visible from the outside the premises except:-
- (i) Any notice required to be displayed by law and / or approved by the local authority.
 - (ii) The trading name of the operator of the sex shop or sex cinema, such trading name not to include any sexually explicit wording or implication.
 - (iii) A sign incorporating letters not more than 12 inches in height bearing the inscription "sex shop" or "sex cinema" or similar phrase approved by the local authority.
 - (iv) Notice of opening hours.
 - (v) Any regulatory or warning notice approved by the local authority.
 - (vi) A copy of the licence.
- 2.21 No such signs or notices shall be illuminated in any other way than to provide illumination during hours of darkness to the satisfaction of the local authority.
- 2.22 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 premises are open to the public.
- 2.23 The number, size and position of all doors or openings provided for the purposes of the ingress and egress of the public shall be to the satisfaction of 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 other than exits 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) No access shall be permitted through the premises to any other premises adjoining or adjacent except in the case of emergency.
- 2.24 The external doors to the premises shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.

State, Condition and Layout of the Premises

- 2.25 The premises shall be maintained in good repair and condition.
- 2.26 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 Shop is open to the public.
- 2.27 The licensee shall make provision in the means of access both to and within the Sex Shop for the needs of members of the public visiting the Sex Shop who are disabled.
- 2.28 No fastenings of any description shall be fitted upon any booth or cubicle within the Sex Shop nor shall more than one person (including any employee) be present in any such booth or cubicle at any time.

- 2.29 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.
- 2.30 All parts of the premises shall be kept in a clean and wholesome condition.
- 2.31 The licensee shall take all reasonable precautions for the safety of the public and employees.
- 2.32 The licensee shall comply with any fire prevention and safety measures that may be required of him / her by the Council.
- 2.33 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.
- 2.34 The licensee shall ensure that the public are not admitted to any part or parts of the premises other than those which have been approved by the Council.
- 2.35 The licensee shall ensure that no part of the premises shall be used by prostitutes (male or female) for soliciting or for any immoral purposes.
- 2.36 Neither the licensee nor any employee or other person shall seek to obtain custom for the Sex Establishment by means of personal solicitation outside or in the vicinity of the premises.
- 2.37 The copy of the licence and these Regulations are required to be exhibited in accordance with paragraph 14 (1) of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 shall be reproductions to the same scale as those issued by the Council. The copy of the licence required to be displayed as aforesaid shall be suitably framed and the copy of these Regulations shall be retained in a clean and legible condition.

Sex Cinemas

Conduct and Management of Sex Cinemas

- 3.1 The licensee shall inform the Council, in writing within 14 days, of any change of director, company secretary or other person responsible for the management of the premises.
- 3.2 The name of the person responsible for the management of a Sex Establishment 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.
- 3.3 The licensee shall maintain a daily register in which he shall record the name and address of any person who is to be responsible for managing the Sex Establishment in his / her 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 opening for business and is to be available for inspection by the Police and by authorised officers of the Council.
- 3.4 The licensee shall retain control over all portions of the premises and shall not let, licence or part with possession of any part of the premises.
- 3.5 The licensee shall maintain good order in the premises.

Exhibition of Licence

- 3.6 The licence or clear copy shall be prominently displayed at all times so as to be readily and easily seen by all persons using the premises.

Film Categories

- 3.7 The categories U, PG, 12, 15, 18 and restricted 18 have the following effect:
 - U – Universal – suitable for all
 - PG – Parental Guidance – some scenes may be unsuitable for young children
 - 12 – Passed only for persons of 12 years and over
 - 15 – Passed only for persons of 15 years and over
 - 18 – Passed only for persons of 18 years and over
 - Restricted 18 – Passed only for persons of 18 or over who are members (or their guests) of a properly constituted club.

Unclassified Films

- 3.8 The licences must notify the Council in writing no later than twenty-eight days prior to exhibiting any other film that has not been classified as specified in the film categories. Such a film may only be exhibited if the Council's gives written consent prior to the event and must comply in accordance with the terms of any such consent given.

Restricted Films

- 3.9 Films restricted 18 (R18) may be shown at the premises only with the Council prior written consent and in accordance with the terms of any such consent.

Persons Under 18

- 3.10 No person appearing to be under the age of 18 shall be admitted to any part of the programme and the licensee shall display in a conspicuous position at each entrance to the premises a notice in clear letters in the following terms:

'PERSONS UNDER 18 CANNOT BE ADMITTED TO THIS CINEMA FOR ANY PART OF THE PROGRAMME'
- 3.11 No persons under 18 years of age shall be employed in any capacity at the premises in an area operating as sex cinema club.

Advertising

- 3.12 No advertisement displayed at the premises where a film is to be exhibited shall depict any scene or incident from a film that has been classified by the British Board of Film Classification, Board of Film Censors or approved for exhibition by the Council as I8 or R18.
- 3.13 The licensee shall display in a conspicuous position, to the satisfaction of the Council at each entrance to the premises, during the whole time the public are admitted to the premises and so as to be easily seen and read by the public, a timetable of the films on exhibition.
- 3.14 When the programme includes a film restricted I8, the licensee shall display in a conspicuous position at each entrance to the premises a notice in clear letters in the following terms:
'CINEMA CLUB – MEMBERS AND GUESTS ONLY. PERSONS UNDER 18 CANNOT BE ADMITTED TO THIS CINEMA FOR ANY PART OF THE PROGRAMME'

Restricted I8

- 3.15 A register of all members and all visitors, books of their guests shall be available for immediate inspection by police or an officer of the Council during any performance or at any other reasonable time.
- 3.16 Tickets shall in no circumstances be sold to persons other than to members.

Membership

- 3.17 The club rules must be submitted to the Council 14 days before the club commences operation and notice of all rule changes shall be given to the Council within 14 days of the change.
- 3.18 Membership shall be open to persons of both sexes of not less than 18 years of age.
- 3.19 Applications for membership, including both name and address, shall be in writing, signed by the applicant and if deemed necessary such applicant shall provide satisfactory references and proof of age.
- 3.20 No persons shall be admitted to membership until the expiration of at least 24 hours after such written application has been approved by the management of the club.
- 3.21 New members shall be supplied with a personal copy of the club rules before being admitted to membership and be given a copy of any rule changes within 14 days of the change.
- 3.22 An annual subscription shall be fixed for the club and shall run for 12 months from the date of registration. Membership may be renewed annually at the subscription for the time being in force, but the management may refuse to renew any membership without assigning reason for such refusal.
- 3.23 Members shall be entitled on any day to bring no more than one guest to accompany the member, and the name of the guest shall be entered in the visitor book and counter signed by the member. Any guest must be over the age of 18 years.
- 3.24 Tickets shall be sold only to members on the production of a membership card, and members shall if required sign and acknowledgement for the ticket or tickets issued.
- 3.25 Membership cards shall be personal to the member and carry a photograph of the holder.
- 3.26 Neither membership tickets nor guest tickets shall be transferable.
- 3.27 Guest may be asked for proof of identity, or of age, or of any particulars of any guest shall be produced by any member of guest if demanded by the management.
- 3.28 Members shall undertake to behave in a proper and orderly manner. Any member or guest acting in a manner which is offensive, or a nuisance or annoyance to others may be refused admission or expelled from the premises. A member may also be deprived of membership.

Sale of Sex Articles

- 3.29 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.
- 3.30 Where a sex shop forms part of the structure of a building containing a sex cinema there shall be no access from the sex cinema to the sex shop or from the sex shop into the sex cinema

Display of Tariff and Charges

- 3.31 There shall be prominently and legibly displayed a comprehensive tariff of all charges and prices which shall be illuminated and placed in such a position that it can easily and conveniently be read by persons before entering the premises. No employee shall stand in such a position as to obscure the notice.

Conduct and Management of Premises

- 3.32 A notice showing the name of the person responsible for the management of the sex cinema on that day to be prominently displayed within the sex cinema throughout the period during which he is responsible for its conduct.

Internal access to cinema

- 3.33 Windows and openings within the premises where films are shown should have blinds of a type and size that covers windows and openings which render the interior of the cinema where films are being shown invisible to passers by and/or other areas within the building that are open to the public for other activities.
- 3.34 The licensee shall ensure that no noise shall emanate from the cinema that can be heard from within another area of the building or from outside.

Security

- 3.35 A member of staff will remain in the vicinity of the entrance to the cinema to prevent under 18's or non-members from illegal entry.