



EASTBOURNE BOROUGH COUNCIL

SEX ESTABLISHMENT & ENCOUNTER POLICY

Eastbourne Borough Council

Proposed Draft Sex Establishment Policy

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Introduction

- 1.1 This document sets out Eastbourne Borough Council's proposed draft policy (the "Policy") regarding the regulation of sex establishments and the procedure relating to applications for sex establishment licences. The Policy was approved for consultation by the Full Licensing Committee on xxx and finally approved by Full Council on xxxx . Once adopted, the policy will be reviewed in light of developing practice, guidance and secondary legislation. Consultation on the Policy will take place over a 12 week period, xxxxx – xxxxx.
- 1.2 This document relates to applications for sex establishment licences. Sex establishments fall into one of the following three categories:
 - sex cinemas
 - sex shops
 - sexual entertainment venues
- 1.3 The scheme for the control of sex establishments by way of a licensing regime is contained in the Local Government (Miscellaneous Provisions) Act 1982, as amended by the Policing and Crime Act 2009. The Council has had regard to the Home Office Sexual Entertainment Venues Guidance for England and Wales (March 2010).
- 1.4 This Policy sets out the Council's approach for the benefit of applicants, and operators. It also aims to guide and re-assure the public and other public authorities, ensuring transparency and consistency in decision making. When the decision making powers of the Council are engaged, each application will be considered on its merits.
- 1.5 The procedure outlines:
 - the process for making an application, and
 - the process the Council will follow in considering and determining an application for a sex establishment.

2. Consultation

- 2.1 Consultation on this Policy will take place with:
 - The Chief Officer for Sussex Police for the area of Eastbourne;
 - One or more persons who appear to the authority to represent the interests of persons carrying or proposing to carry on the business of a sex establishment in the authority's area. (There is one existing sex establishment, a sex shop, in the Borough;)
 - One or more persons who appear to the Authority to represent the interests of persons to be employed either as performers or otherwise in the business of a sex establishment;
 - One or more persons who appear to the Authority to represent the interests of persons who are likely to be affected by or otherwise have an interest in the Policy. This includes, but is not limited to, regulatory authorities such as Sussex Police, the Fire Authority, Community Safety and Child Protection;
 - Interested parties such as resident associations and trade associations and others as considered appropriate.

2.2 The Licensing Authority will give due weight to the views of those consulted, and amend the Policy where appropriate. In determining what weight to give particular representations, the factors to be taken into account will include:

- Who is making the representation (what is their expertise or interest)
- How many other people have expressed the same or similar views
- How far the representations relate to matters the Council should include in its Policy.

2.3 The full list of those consulted, comments made and their consideration by the Council is available on request from the Licensing Team or by email to licensing@eastbourne.gov.uk

2.4 The Policy is published via the Licensing website: www.eastbourne.gov.uk/licensing.

Hard copies will be available upon request from the Licensing Team.

2.5 Should you have any comments regarding this Policy, please send them via email or letter to the Licensing Team:

The Sex Licensing Policy
Licensing Manager
1 Grove Road
Eastbourne
BN21 4TW

3.0 Definitions

3.1 The Act

This refers to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, as amended by the Policing and Crime Act 2009.

3.2 The Policy

This refers to the Eastbourne Sex Establishment and Encounter Policy.

3.3 Sex Cinema

A sex cinema is any premises, vessel, vehicle or stall used to a significant degree for the exhibition of moving pictures however produced, which:

(a) are concerned primarily with the portrayal of, or primarily deal with or relate to or intending to stimulate or encourage sexual activity, acts of force or restraint which are associated with sexual activity

(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 .

3.4 **Sex Shop**

A sex shop is 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
- (b) other things intended for use in connection with or for stimulating or encouraging:-
 - (i) sexual activity
 - (ii) acts of force or restraint which are associated with sexual activity.

3.5 **Sex Articles**

A sex article is anything for use in connection with or for stimulating or encouraging

- (a) sexual activity
- (b) acts of force or restraint which are associated with sexual activity.
- (c) anything:-

i) 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
ii) to any recording of vision or sound, which

- a) 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
- b) is concerned primarily with the portrayal of, or primarily deals with or relates to, genital organs, or urinary or excretory functions.

3.6 **Sexual Entertainment Venue**

A sexual entertainment venue is any premises where any live performance or any live display of nudity is of such a nature that, regardless of financial gain, it must reasonably be assumed to have been provided solely or mainly for the purpose of sexually stimulating any member of the audience. It includes, but is not limited to, lap dancing, pole dancing, table dancing, strip tease, live sex shows and similar venues.

3.7 **The Organiser**

This is any person who is responsible for the organisation or management operation of the relevant entertainment or the premises.

3.8 **Display of nudity**

This means:

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

3.9 **Relevant locality**

This is the locality where premises are situated or where the vehicle, vessel or stall is going to be used as a sex establishment. The locality and the area that this covers is a matter for the Local Authority to decide at the time it considers an application for the grant, renewal or transfer of a sex establishment licence.

3.10 **Permitted hours**

These are the hours of activity and operation that have been authorised under a sex establishment licence.

3.11 **Appropriate Authority**

Eastbourne Borough Council is the 'Appropriate Authority' for the purposes of the sex establishment licensing regime introduced by the Local Government (Miscellaneous Provisions) Act 1982 (as amended) and adopted by the resolution of the Council on the xxxx taking effect from the xxx

4. **Policy Considerations And Relevant Locality**

- 4.1 This Policy applies to the areas covered by Eastbourne Borough Council. Spanning an area of 45.1 hectares, Eastbourne is a thriving seaside town and a spectacular gateway to the South Downs and the national beauty spot, Beachy Head. It has a resident population of 94 816 persons and is the fastest growing town for families in the South East.
- 4.2 With five miles of beaches, the largest manmade marina in the UK, and over 4,000 acres of South Downs countryside, Eastbourne regularly receives awards from Blue Flag to Best UK Resort and Most Group-Friendly UK Destination.
- 4.3 Tourism is crucial to this cosmopolitan area and is Eastbourne's primary industry. Generating over 4 million visitors and 7,464 jobs, tourism is worth over £343 million to the local economy every year, and brings over £5.5 million in conferencing business.
- 4.4 With one of the largest accommodation stocks in the South East, Eastbourne has approximately 7,500 bed spaces, and as a result the town stages a busy events programme which includes international ladies tennis, theatre shows direct from the West End and an international four day air show, Airbourne, bringing over 800,000 visitors.
- 4.5 In addition, a 10 year Tourism Strategy seeks to secure investment in the town. It develops new marketing initiatives which will add new audiences for Eastbourne in the future, targeting 35+ age groups with high spending capability.
- 4.6 The Council's vision is to achieve balanced, sustainable communities and neighbourhoods to enable a good quality of life for all. In consultation with its partners it has developed and adopted a number of strategies, policies and plans that set out how we mean to achieve this vision.
- 4.8 In devising this Policy, regard has been given to the available data, findings, shared vision and plans informing Eastbourne's Sustainable Community Strategy (the "Strategy"), adopted by the Council and local strategic partnership.

Strategic Vision

4.9 The Strategy has the following vision for the Borough:

- A Borough with greater opportunity and prosperity for everyone, whatever their background, and narrowing economic environmental and health inequality.
- Safe, strong and cohesive communities, and a shared sense of fairness, citizenship and social responsibility.

4.10 The Council aims to integrate this Policy with the objectives of the Sustainable Community Strategy and the Core Strategy so that it contributes to achieving the vision of the Borough. This is considered in the context of:

- the relative size of the borough taken as a whole
- population density and growth trends
- ward profiles
- borough profile
- poor economic and health specific deprivation indices
- level of social housing and tenure
- areas subjected to regeneration initiatives
- locations of: premises attracting vulnerable people such as GP surgeries and addiction centres
- areas and premises attracting families such as leisure and sport facilities and play spaces and play path finders, parks and open spaces
- premises attracting young people such as schools, nurseries and other educational establishments
- our diverse cultural communities
- places of worship
- Cumulative densities of certain types of commercial premises in any one location

4.11 It aims to bring about positive, sustainable, thriving neighbourhoods which support the need and principle of upskilling its population

4.12 Working with its partners in Health, Education, the Police and the business and voluntary sectors, the Council will continue to ensure that it reasonably and proportionately reflects the needs of its local communities through:

- continued meaningful consultation
- the promotion of a consistent and fair approach to regulation
- consultation with the Police and other agencies as appropriate, to establish protocols for effective enforcement

4.13 The Council understands that the co-ordination and integration of policies, strategies and initiatives is important. This policy takes account of, and is supported by, other Council policies and relevant legislation mentioned below. Through partnership working, the Council will seek to secure the proper integration of its Policy with other licensing policies, local crime prevention, planning, tourism, race equality schemes and cultural strategies, and any other plans introduced for the management of town centres and the night time economy

4.14 This Policy has therefore had regard to several strategies and legislation, including:

- Eastbourne's Local Area Agreement 2007-2010
- Eastbourne – "The Place Survey" 2008

- Eastbourne Alcohol Substance Misuse Strategy 2011
- Eastbourne Licensing Enforcement Policy 2010 - 2013
- Eastbourne Cultural Strategy 2009
- Eastbourne's Local Development Framework (LDF) and Borough Plan
- Town Centre Management Strategy
- Section 17 of the Crime and Disorder Act 1998
- The Human Rights Act 1998
- The Disability Discrimination Act 1995
- Eastbourne's Statement of Licensing Policy (Licensing Act 2003)
- Eastbourne's Statement of Licensing Policy (Gambling Act 2005)

5. General Policy

Principles to be applied

5.1 Specific mandatory grounds for refusal of a licence are set out in the Act.

A licence cannot be granted:

- a) to anyone under 18 years of age
- b) to someone who has held a licence that was revoked in the last 12 months (from the date of revocation) and who was disqualified from holding a licence for that period.
- c) to someone who has been refused a new licence or renewal of licence within the last 12 months (from the date of making the application)
- d) to an individual who is not resident in the United Kingdom or who has not been resident for six months prior to the making of an application
- e) to a company not incorporated in the United Kingdom

5.2 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 effects on crime and disorder. It aims to do all it can to prevent crime and disorder in its area. The possible impact of crime and disorder are clearly relevant factors in the consideration of all applications. In giving "due regard" to these possible implications, Members will consider all information available and representations made from all Objectors, the Applicant and in particular the Sussex Police.

5.3 Every application for the grant, renewal or transfer will be considered on its merits, on a case by case basis.

5.4 The Council may also refuse a licence if the applicant is unsuitable to hold a licence because they have been convicted of an offence or for any other reason. The determination of the suitability of the applicant is a matter for the local authority to decide at the time the application is made.

5.5 Each application will be considered on its own merits. The Local Authority will take into account representations from the applicant, any person objecting and the Chief Officer of Police. the Council shall normally take into account:

- previous knowledge and experience of the applicant and their managerial competence
- any evidence of the operation of any existing/previous licence held by the applicant, including any licence held in any other borough

- any report about the applicant and management of the premises received from objectors or the Police and any criminal convictions or cautions of the applicant
- that the operator is proposing a management structure which will deliver compliance with operating conditions, and policies detailing the training of staff and welfare of performers as well as means to protect the public.
- any other relevant reason

5.6 Were the licence to be granted, renewed or transferred, the business to which it relates would be managed or carried on for the benefit of a person other than the applicant, who would have been refused a licence if they had applied themselves. The determination of the business benefit is a matter for the local authority to decide at the time the application is made. Each application will be considered on its own merits. The local authority will take into account representations from the applicant, any person objecting and the Chief Officer of Police. The Council shall normally take into account:

- comments/observations of the Police and Council personnel, including compliance with licensing conditions, relevant history (including noise complaints) together with details of previous convictions/prosecutions pending.
- the suitability and fitness of an applicant/operator to hold a licence.

5.7 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.

5.8 The grant or renewal of licence would be inappropriate having regard to:

- i) the character of the relevant locality
- ii) the use to which any premises in the vicinity are put; or
- iii) the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made
- iv) Where it can be shown that the business would be managed for the benefit of a third party who would be refused a licence.

5.9 The relevant locality will be determined in accordance with where the premises are situated or where the vehicle, vessel or stall is going to be used. The area and extent of the relevant locality is a matter of the local authority to decide at the time the application is made. Each application will be considered on its own merits.

5.10 In determining the character of relevant locality and the appropriate number of sex establishments in that relevant locality, the Local Authority will take into account, but not limit its determination to:

- (a) the use to which any premises in the vicinity are put;
- (b) the number of existing sex establishments both in total and also in respect of each type (*i.e.* sex cinemas, sex shops and sexual entertainment venues);
- (c) the number of existing premises engaged in and or offering entertainment]of an adult or sexual nature or entertainment or associated with an adult or sexual nature (for example tattooing, piercing etc;)

- (d) the proximity of residents to the premises, including any sheltered housing and accommodation for vulnerable persons;
- (e) the proximity of educational establishments to the premises;
- (f) the proximity of places of worship to the premises;
- (g) access routes to and from schools, play areas, nurseries, children's centres or similar premises;
- (h) the proximity to shopping centres;
- (i) the proximity to community facilities/halls and public buildings such as swimming pools, leisure centres, public parks, youth centres/clubs. This list is not exhaustive;
- (j) the potential impact of the licensed activity on crime and disorder and public nuisance;
- (k) the potential cumulative impact of licensed premises in the area taking into account the days and hours of operation of the activity and the character of the locality where the premises are situated;
- (l) the nature and concerns of any objections received from residents/establishments objecting to the licence application;
- (m) any evidence of complaints about noise and/or disturbance caused by the premises;
- (n) current planning permission/planning requirements on the premises;
- (o) any current planning policy considerations;
- (p) whether there is planned regeneration of the area;
- (q) any current licensing permissions related to the premises in relation to activities, uses and hours;

6.0 Renewal Applications

- 6.1 Where a licence was in existence before the introduction of this Policy, this Policy will become a consideration when the licence is due for renewal.
- 6.2 It should be noted that the Council in applying its decision-making discretion may consider it appropriate to refuse the renewal of the licence even where there has been no change in the character of the relevant locality or in the use to which any premises in the locality are put.
- 6.3 If a renewal application is not opposed, it shall be approved under Authority delegated to relevant officer(s). All contested applications for renewal, as described in the Act shall be referred to the Licensing Sub-Committee for decision.

7. The Application Process

Making an application

- 7.1 Any application should be made in writing to the Council Licensing Team. Please note that generally, applications may take 8-12 weeks to determine.
- 7.2 Applicants for a licence must complete and return the application form, together with:
- five sets of floor plans, drawn to scale and showing all means of entry and exit, any parts used in common with any other building and indicating how the premises lie in relation to the street;
 - five sets of plans showing the existing and front elevation of the premises depicting all signage;
 - five sets of plans (scale 1:500) showing the sex establishment in relation to other premises within 100 metres;
 - five sets of plans (scale 1:50) showing the layout of the sex establishment;
 - the correct fee as set by the Council's Licensing Committee
- 7.3 As part of the application process, applicants are required to post a white A3 notice at the proposed site for 21 days, from the date the application is lodged with the Council, setting out the application details.
- 7.4 The notice must be posted in a prominent position on the premises for the whole of that time so that it can be easily read by passers-by. Applicants are also required to place a public notice in a local newspaper, for example the Eastbourne Gazette or Eastbourne Herald, at their own expense. The newspaper notice should appear in the publication within 7 days of the application being lodged.
- 7.5 Authorised Officers from the relevant Authority may choose to inspect the premises. This includes Council Licensing Officers, Sussex Police, and the Fire Authority to ensure that required technical standards are met. If works are required to bring the premises up to standard, the applicant will be notified. Licences will not be issued until all required works are satisfactorily completed.
- 7.6 As part of the established procedure for dealing with applications, the Council's Noise Pollution Team will be consulted. If there is the possibility of noise nuisance for example from amplified music, these officers may also carry out an inspection and recommend noise insulation work. Any requirements they identify must be complied with at all times any licence is in force.
- 7.7 Notice of all applications shall be given to Council Licensing Officers, Sussex Police, and the Fire Authority, Heads of Service and all Ward Members and any other relevant person as deemed appropriate by the Council.
- 7.8 Applicants are advised that any person who, in connection with an application for the grant renewal or transfer of a licence, makes a statement which s/he knows to be false in any material respect, or which s/he does not believe to be true, is guilty of an offence and liable to summary conviction to a fine not exceeding £20,000.
- 7.9 Any licence approved does not constitute any approval under any other Acts (for example, the Town and Country Planning Act 1990) or Bye-Laws. The applicant must ensure that all other necessary consents and approvals are obtained prior to operation.
- 7.10 The Council will not determine an application for grant of a licence unless the applicant allows an authorised officer a reasonable opportunity to enter the proposed

sex establishment to make such examination and enquiries as may be necessary to determine the suitability of the applicant and the sex establishment.

- 7.11 On the grant of a licence, the licence document will have the agreed days and hours of operation set out, together with any other specific and/or standard conditions applied. Licence holders must comply with this.
- 7.12 Application forms, sample advertisements and site notices are available via www.eastbourne.gov.uk/licensing or on request from the Licensing Team.

8.0 Renewal of Licences

- 8.1 To continue operating as a sex establishment, licence holders must make a renewal application prior to the expiry of the existing licence.
- 8.2 The Council will not determine an application for renewal of a licence unless the applicant allows an authorised officer a reasonable opportunity to enter the proposed sex establishment to make such examination and enquiries as may be necessary to determine the suitability of the applicant and the sex establishment.

9. Variation of Licence

- 9.1 The application form, with relevant plans and fee should be sent to the Licensing Service. Please note that applications for variation of licence are also subject to the site and newspaper notice requirements set out statute.
- 9.2 Variation applications relate only to proposed changes to such matters as the hours and area of the premises covered by the licence. Any changes in Licensee must be the subject of a transfer application.
- 9.3 All variation applications for sex establishment licences must be referred to the Council's Licensing Sub-Committee for decision. Applicants must not operate any revised or varied arrangements until such an application has been approved and any revised or varied licence has been issued.

10 Transfer of Licence

- 10.1 The Council will not determine an application for transfer of a licence unless the applicant allows an authorised officer a reasonable opportunity to enter the proposed sex establishment to make such examination and enquiries as may be necessary to determine the suitability of the applicant and the sex establishment.

11.0 Representations on an Application

- 11.1 Any person wishing to object to an application must submit a written representation within the 28 day consultation period specified to the Licensing Service, setting out the grounds of objection.
- 11.2 Valid representations must be made within 28 days of the application being submitted. Representations made before the application is submitted can be taken into account. The Council also has discretion to consider representations made after the 28 day consultation period although this will be assessed on a case by case basis.

- 11.3 The legislation dictates that, unless a person making representations consents, their name and address shall not be revealed to the applicant. They may also be reluctant to appear before a hearing of the Sub-Committee.
- 11.4 However, the grounds of any objection made on the application must be provided to the applicant prior to the determination of the application. The report to the Licensing Sub-Committee may have full details of the objections, including any actions / undertakings proposed by the applicant to address matters raised.
- 11.5 Additionally, the applicant and any persons who made representations and who wish to attend the hearing will have the opportunity to address the Licensing Sub-committee before the application is determined.

12.0. Duration of Licence

- 12.1 Sex Establishment Licences will normally expire on an annual basis, but can be issued for a shorter term if deemed appropriate.

13.0 Appeals

- 13.1 There is no right of appeal:

- 6 against refusal of licence on the grounds set out in paragraph xxx or xxx above, unless an applicant can prove the appropriate ground of refusal does not apply to them
- 7 where refusal of licence is based on the grounds set out in paragraph xxx above
- 8 against conditions applied to a licence

- 13.2 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.

- 13.3 Where an appeal is lodged (other than on grounds previously stated) against refusal to renew or for revocation, the licence remains in force until such time as the appeal is determined. Where an appeal is lodged against conditions applied to a licence, the conditions are deemed not to come into force until the determination or abandonment of the appeal.

14. Human Rights

- 14.1 In determining applications, the principles of the Human Rights Act 1998 must be taken into consideration. The Act acknowledges that local authorities are entitled, amongst other things, to act where this is in the "general interest". Should it be decided to refuse or to grant an application, or to attach conditions, the rights of appeal that exist through the Magistrates' Court will ensure that the principles of the Human Rights Act are adhered to.
- 14.2 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.

15. Policy Review

- 15.1 This Policy will be reviewed at least every 3 years. It's contents will be revised to incorporate statute and guidance as appropriate.

Appendix 1

Licensing Committee A Pursuant to the Local Government (Miscellaneous Provisions) Act 1982 and Policing and Crime Act 2009 Control of Sex Establishments and Sex Encounter Establishments

Hearing Procedure

PROCEDURE AT COMMITTEE

- 1.1 Chair opens the meeting, introducing Members of the Committee and Officers present, asks any other parties present to introduce themselves and their position and purpose for attendance. Chair explains the nature of the decision to be taken, and the procedure to be followed.
- 1.2 In turn, the Chair will direct those who have made written representation, be they the applicant, Responsible Authority or other relevant individual/business, to briefly address the Committee on their representations, information or other evidence that the Chair feels require clarification.
- 1.3 Individuals or responsible authorities will only be afforded a hearing if the Chairman can be satisfied that:
 - A relevant written objection/representation was received before the end of the 28 day statutory consultation period.
 - The objector can 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.
 - That the applicant is given the opportunity of hearing and noting what the objectors say.
- 1.5 The Chair may also direct that an appropriate time limit be set to allow each individual equal opportunity to present their case.
- 1.6 Licensing Manager outlines the application, any relevant representations and relevancies to the Local Government (Miscellaneous Provisions) Act 1982 and Policing and Crime Act 2009 relating to the control of Sex Establishments. and Sex Encounter Establishments.
- 1.7 Chair invites applicant (if present) and invites him/her to confirm that the outline of the application given in the report is accurate and if they have questions of the Licensing Manager.

NOTE: Applicant's submissions to be made at 7 below, and not at this stage.

- 1.8 Chair to invite Members to ask any relevant questions of the Licensing Manager.
- 1.9 Chair to invite the Applicant to make oral submissions to Committee if he/she wishes to do so. This will primarily be to offer clarification on evidence already provided and/or to address Members on matters the Applicant considers to be relevant to the application. No new information may be introduced at this stage unless there is the express consent of all parties present. The Chair has a right to consent or refuse submission of late evidence.
- 1.10 Chair to invite Members/Licensing Manager/Objectors to ask any relevant questions of the Applicant.
- 1.11 Chair to invite those making representations/objections to make oral submissions to Committee if he/she wishes to do so. This will primarily be to offer clarification on evidence already provided and/or to address Members on matters the objector considers to be the relevant to the application. No new information may be introduced at this stage unless there is the express consent of all parties present.
- 1.12 Chair to invite Members/Licensing Manager/Objectors to ask any relevant questions of the objector /persons making the representations.
- 1.13 Chair to invite Applicant to make a very brief closing speech/summing up if they wish. No new information may be introduced at this stage.
- 1.14 Chair to invite Members to go into closed session to make their decision. The Committee's Legal Adviser will not enter into closed session with Members unless specifically invited to do so, and will outline the nature of their advice once returning to the Committee open session.
- 1.15 Members return to open session. Chair announces the decision, giving reasons, and any conditions placed upon the licence (if granted).

NOTE

- Decisions will generally be taken regardless of whether the applicant is present. All notices and representations received from absent parties will be considered.
- The Council requires that any evidence supplementary to the original submissions, in support of or against an application must be received a minimum of 5 working days before the date on which the matter is to be heard. All parties must have had sight of such.
- Late representations and evidence will only be considered with agreement of all parties present. The Chair has the right to consent or refuse to allow this to be included in the proceedings.

- The applicant will normally be notified in writing of the decision within 5 working days.
- Applicants and Licence holders have right to appeal against a decision in certain circumstances, details of which can be obtained from the Licensing Manager
- This Council is committed to taking decisions in an honest, accountable and transparent fashion but on occasion may find it necessary to exclude members of the press and public based upon the legal framework given by the Local Government Act 1972 Schedule 12a and/or local policy. On these occasions decisions based on the above framework will be given. Generally this authority endeavours to allow all parties to speak and ask questions of another party present during a Licensing hearing. However, under Sex Shop Licensing regulation this decision has to be taken on a case by case basis and in many cases (a reason will be given) verbal representation and cross examination may not be permitted.
- The Authority has the right to exclude any parties disrupting this hearing, at its discretion.
- The Authority reserves the right to amend the hearing procedure without notice.

Appendix 2

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 & LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 AS AMENDED BY THE POLICE AND CRIME ACT 2009

Eastbourne Borough Council

Sex Establishment & Sex Encounter Venues

Schedule of Standard Conditions

Display Of Licence

- A copy of the Sex Establishment Licence and the standard conditions made by the authority must be kept exhibited in the public area of the premises.

Age Policy

- No person under 18 years of age to enter the premise.
- All customers appearing to be under the age of 21 to be required to provide photographic proof of their age before being allowed access to the shop.
- No person under 18 years of age is to be employed in the business of the establishment.
- At all entrances there shall be prominently displayed so as to be visible at all times to persons approaching the premises a notice prohibiting entry to all persons under 18 years of age.
- The Licensee of the premises shall ensure that all persons employed on the premises are aware of the age restriction on clients and that they exclude or remove from the premises any person attempting to evade the restriction.

Site Specific

Sex Shop

- A premises licensed as a Sex Shop under the provisions of Schedule III of the Local Government (Miscellaneous Provisions) Act, 1982, shall be used only for the purpose of a Sex Shop as defined in Paragraph 4 of the said Schedule 3 and shall not be used, wholly or in part, for any other purpose during the period the premises are licensed as a Sex Shop.
- The Licensee shall not display outside, near to, or within the premises any advertising material, sign or pictorial display referring to the licensed premises or the

goods, articles or services provided at the premises, in such a position or manner that it is visible to any person using adjacent highways, streets, footpaths or forecourts except any notice displaying the name or trading title of the Licensee, any Notice indicating the name of the premises, times of opening of the premises for business, any Notice required by any statute, regulation or bylaw applicable to the premises or business carried thereon or any notice prescribed by these conditions.

- The use of loudspeakers and displays on business vehicles is strictly prohibited.
- The licensed premises shall be so arranged by screening or obscuring 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. The external doors shall be fitted with automatic closing devices which shall be maintained in good working order.
- The Licensee shall not supply or permit to be supplied to any person, other than a person employed to work on the premises, any article of food or drink whether for consumption on or off the premises.
- All refuse produced on the premises and materials, goods or articles discarded for any reason shall be securely stored within the premises and delivered in sealed containers to the refuse collection service.
- The Licensee shall make such provision for the reception of goods and articles for sale, hire, exchange, loan, demonstration or display on the premises so that they are received directly into the premises and are not subject to storage for any period of time on any pavement, footpath, forecourt or yard nor in any vessel or vehicle, etc. where they may be seen by members of the public
- The Licensee or a Responsible Person nominated by him in writing for the purpose and approved by the Council shall be in charge of and upon the licensed premises during the whole time they are open to the public. Such written nominations shall be continuously available for inspection by authorised officers of the Council or the Police.
- The Licensee or their nominated representative shall ensure that no employee or other person shall seek to obtain custom for the premises by means of personal solicitation outside or in the vicinity of the premises.
- The external appearance of the premises must be as approved by the Council and neither the interior nor the exterior of the premises shall be altered without the approval of the Council.
- No advertisements, other than advertisements relating to other licensed sex establishments or relating to goods sold from the premises, shall be displayed in the premises.

- A record shall be kept of all mail order transactions (if any) in such form as agreed by the Council.
- The licence is not transferable by the Licensee other than through the formal application process to the Licensing Authority.
- The Licensee shall immediately notify the Council he/she intends ceasing to carry on the business.
- The Licensee shall inform the Council if he/she is convicted under the Obscene Publications Act, 1959, the Protection of Children Act, 1978, or the Customs and Excise Management Act, 1979 or if an order for forfeiture is made under the Obscene Publications Act, 1959 following the service of a summons on the Licensee. The Council will take into consideration any such conviction or orders for possible revocation or non-renewal of the licence.
- The Licensee shall not in the conduct of the business employ any person:-
 - Whose application for a licence to carry on a sex establishment, or renewal thereof, has been refused by the Council or any other licensing authority
 - Whose licence to carry on the business of a sex establishment has been revoked by the Council or any other licensing authority;
 - The name, address, date of birth and details of any criminal convictions of all individuals who will have responsibility for the operation or management of the store in the absence of the licence holder are to be provided to the Licensing Authority prior to such persons commencing their role at the premises.
- The Licensee shall not, in the conduct of the business, employ any person who has a criminal conviction or simple caution under:
 - The Obscene Publications Act, 1959,
 - The Protection of Children Act, 1978, or
 - The Customs and Excise Management Act, 1979
- No external signage is to be displayed on the premises, except for the company name, the hours of business and details of the age restriction, without the written authorisation of the Licensing Authority.
- The windows of the premises must be such that there is no view from outside into the interior of the premises and no window display is to be permitted.

- A lobby area is to be installed with double doors so restricting the view into the premises when patrons are entering and leaving.
- CCTV is to be installed, operated and maintained to a standard agreed with by Sussex Police and the Licensing Authority. The system is to include 28 day Imaging storage and be available for inspection in accordance with the Police's requirement. All goods to be discreetly wrapped before leaving the premises.
- No part of the premises is to be used for the showing of recorded videos, DVDs or other moving pictures.
- Any breach of legislation or failure to comply with the Conditions attached to this Licence may result prosecution or in the revocation of the Licence.

Premises where activities include lap dancing, pole dancing, nudity and/or sexual stimulation

The prevention of crime and disorder:

Security Industry Authority Door supervisors:

- 1) The Designated Premises Supervisor (DPS) or their authorised representative will ensure that all personnel carrying out security functions at the premises shall be licensed by the Security Industry Authority. (SIA)
- 2) There will at all times be a minimum of 2 SIA door supervisors at the main entrance to the premises and thereafter to a ratio of 1 SIA Door Supervisor per 100 patrons or part thereof. There will be a further two SIA door supervisors on each floor whilst that floor is in operation, deployed as directed.
- 3) Additional door supervisors must be provided on the respective floor on a ratio of 1 to 100 on any occasion when the capacity on that floor exceeds 200 customers. The two door supervisors operating at the entrance to the premises will be excluded from this calculation.
- 4) Records shall be maintained at the premises containing the full name, badge number, date and hours of employment of every Door Supervisor.
- 5) If Registered Door Staff are employed through an agency the name and address of the agency must be included in the entry referring to the person employed by the agency.
- 6) Any such record must be in a form approved by the Licensing Authority. [In the event that no form is either issued or approved by the Licensing Authority, the management may draft their own form but this must contain all the information stipulated in this section].

- 7) The Designated Premises Supervisor or their nominated representative shall ensure door supervisors display a approved SIA badge

Close Circuit Television (CCTV) and Associated Recording Equipment

- 8) CCTV and appropriate recording equipment to be installed, operated and maintained throughout the premises internally and externally to a standard specification following consultation with Sussex Police. Such CCTV footage will be stored for a minimum of 28 days, and the management will give full and immediate cooperation and technical assistance to the Police in the event that CCTV footage is requested for the prevention and detection of suspected or alleged crime.
- 9) The Chief Officer of Police, or his/her representative of the rank of Inspector or above, must be afforded access to video recordings upon request and be provided with a copy, which will be returned to the club within a reasonable time.
- 10) The premises will not open unless and until written confirmation has been supplied to the Council Licensing Authority by the Police that they are satisfied that the installation, operation and coverage of the CCTV system meets the required standard.
- 11) Security arrangements for the dressing rooms in the form of a combination lock with deadlocking latch and a discreet panic alarm within the dressing rooms, linked to the club reception, shall be maintained at all times whilst the premises are open. No member of the audience shall be admitted to this room under any circumstances and a notice to this effect will be displayed on the door.

Drugs

- 12) The management and premises will have an absolute zero tolerance policy towards drugs and drug misuse. Any illegal drugs seized will be stored in a secure 'drugs box', and periodically the management will request the Police to come and remove all drugs in the 'drugs box' for destruction.
- 13) In the event that a person is found on the premises actively taking or dealing in drugs, that person will be detained and the Police will be called to the premises.
- 14) The management will permit the Police to use an 'ION Track' drugs detector or other similar device inside the premises to detect the illegal use of drugs and will sign the Police consent form.

Public Safety

- 15) Capacity limits. The number of persons on the premises shall not exceed that as stated by the Fire Officer. Such a figure will **include** staff and performers.'
- 16) When the DPS is not on site, an appropriately authorised, trained and nominated individual shall assume management and control of the site.
- 17) Crime prevention and security measures shall be instigated throughout the premises following consultation with Sussex Police Crime Prevention Design Advisor or their nominated representative, as reasonably required.

- 18) The management of the premises will meet with the Police to discuss the safe and proper management of the premises on a minimum three monthly basis, unless the Police confirm in any one quarter that such a meeting is not necessary.
- 19) The premises will continue to be a member of NIGHT WATCH or any similar organisation set up to replace this.
- 20) Shatterproof drinking receptacles will be used throughout the site where practicable.
- 21) No persons under 18 will be admitted to the premises.
- 22) No under 18s events will be hosted anywhere on the premises at any time.
- 23) Whilst striptease entertainment is taking place, no customer under 18 shall be on the premises and clear notices shall be displayed at the entrance to the premises in a prominent position so that it can easily be read by persons entering the premises in the following terms:

NO PERSONS UNDER 18 TO BE ADMITTED ENTERTAINMENT WITHIN THESE PREMISES INVOLVES A FORM OF NUDITY

Special Conditions

- 24) The only form of entertainment which is approved and may be provided at the premises is striptease entertainment in the form of pole dancing by club dancers only, in the following format:
- 25) Fully nudity is not permitted. The dancer/performers should at all times wear a G-string or similar piece of clothing which is not transparent on the appropriate part of the body in order to cover the groin/genital area.
- 26) The approved striptease/pole dance entertainment shall be given only by the performers/entertainers and no audience participation shall be permitted.
- 27) There shall be no physical contact between the customer and the dancer before, during or after the performance when the performance is complete. All monetary transactions will take place at the reception/entrance area and shall be lieu of a ticket, covering the cost of the performance of pole dancing only. Notices outlining this shall be clearly displayed at every table and be on display at the entrance of the premises and in each bar area.
- 28) Dancers shall only perform within a designated area to seated customers. No booth seating or performances shall be permitted at any time. All areas will have adequate lighting to ensure the safety of the dancer and to ensure that both the member/guest/audience and the performer are adhering to the Club rules at all times.
- 29) There shall be no simulated sex acts or use of props, save for the pole, as part of the performance.
- 30) There shall be no physical contact between dancers whilst performing.

- 31) There will be a minimum distance of one metre between the dancer and the seated customers at all times.
- 32) Dancers may not give out any personal information, including telephone numbers, email addresses or other contact details to audience members. Dancers may not accept any telephone number, address, business card or any other information from any customer.
- 33) All dancers/performers will be aged over 18 years of age and legally entitled to work in the UK before they perform at the Club. Copies of all dancers files will be made available to Licensing Authority for inspection upon request.
- 34) At no time will members or their guests be permitted into the performers changing room(s).
- 35) Members and their guests may not at any time take photographs, film, video or mobile phone photographs or footage of performers. This will be an express written condition of membership.
- 36) Both floors will be dedicated to table and/or pole dancing on design. The premises will not permit one floor to be used for table and/or pole dancing or other forms of adult entertainment, whilst permitting the other floor to be used for other types of function (whether open to the public or via private booking) without first receiving prior written confirmation and approval for the specific event from the Police and the Council Licensing Department.
- 37) There shall be no mixed gender performance at any time.
- 38) Outside of premises advertising. The Designated Premises Supervisor or their nominated representative will ensure that there is no display outside of the premises of photographs or other images that indicate or suggest that pole dancing striptease or similar entertainment takes place on the premises. No photographs or other images or words of a sexually explicit nature shall be displayed on the outside of the premises.
- 39) Website. Any promotional website for the premises will not display photographs or other images of topless or nude performers, or show photographs or other images that may be reasonably construed as sexually explicit. The website will include clear statements as to the 48 hour prior membership application requirement and the over 18 age requirement for members and guests.
- 40) Promotional literature. Any promotional literature circulated outside of the premises will not display photographs or other images of topless or nude performers, or show photographs or other images or words that may reasonably be construed as offensive. All promotional literature will include clear statements as to the 48 hour prior membership requirement and the over 18 age requirements for members and guests.

Conditions

- G1. Only activities to which the Council has given its consent shall take place.
- G2. The approved activities shall take place only in areas designated by the Council and the approved access to the dressing room(s) shall be maintained whilst striptease entertainment is taking place and immediately thereafter.
Note The Council will not permit striptease to be in a location where the performance can be seen from the street.

- G3. The striptease entertainment shall be given only by the performers/entertainers and the audience shall not be permitted to participate.
- G4. Whilst striptease entertainment is taking place no person under the age of 18 shall be on the premises. A clear notice shall be displayed at each entrance to the premises in a prominent position so that it can be easily read by persons entering the premises with the words

(i) NO PERSON UNDER 18 WILL BE ADMITTED

- G5. There shall be no physical contact between the customer and performer before, during or after the performance other than the placing of notes by the customer in a garter worn by the performer for that purpose.
- G6. Notices outlining this shall be clearly displayed at every table, be on display at the entrance of the premises and at each bar area.
- G7. The performers shall at all times wear at least a G-string which shall not be removed as part of the performance and which shall at all times cover the genitalia.
- G8. Entertainment under this consent may be provided solely by dancers performing on the stage or to customers seated at a table in the approved part of the premises.
- G9. CCTV shall be installed to cover all the areas where dancing will take place.
- G10. Whilst dancing takes place, registered door supervisors shall be employed in that part of the premises used for dancing. The number of registered door supervisors employed shall be stipulated by the Council as part of the conditions of consent.

Appendix 3

RESPONSIBLE AUTHORITIES IN EASTBOURNE

Eastbourne Borough Council

Licensing Team
1 Grove Road
Eastbourne
East Sussex
BN21 4TW
Tel:01323 410000

Police Sussex Police The Licensing Unit Police Station Terminus Road Bexhill-on-Sea East Sussex TN39 3NR Tel: 0845 6070999	Fire Authority Fire Safety Officer East Sussex Fire and Rescue Service Eastbourne Borough Fire Safety Office Whitley Road Eastbourne BN22 8LA Tel: 0845 1308855
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Health & Safety

Council owned premises:

Health & Safety Officer

Eastbourne Borough Council
1 Grove Road
Eastbourne
East Sussex
BN21 4TW
Tel: 01323 410000

For Non-council owned premises

Enforcement Liaison Officer

Health & Safety Executive
Phoenix House
23-25 Cantelupe Road
East Grinstead
RH19 3BE
Tel: 01342 334200

Planning

Development Manager
Eastbourne Borough Council
68 Grove Road
Eastbourne, East Sussex
BN21 4UH
Tel: 01323 410000

Environmental Health

Pollution Services Manager
Eastbourne Borough Council
1 Grove Road
Eastbourne, East Sussex
BN21 4TW
Tel: 01323 410000

Child Protection East Sussex County Council Head of Children's Safeguards and Quality Assurance P.O Box 5 East Sussex County Council, County Hall Lewes, East Sussex BN7 1SW Tel: 01273 481000	Trading Standards East Sussex County Council Trading Standards St Marys House 52 St Leonards Road Eastbourne, East Sussex BN21 3UL Tel: 01323 418200
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