

Appendix A



**South
Derbyshire
District Council**

SEX ESTABLISHMENT LICENSING POLICY

Index		
1.0	Introduction	Page 2
2.0	Purpose and Aim of Policy	Page 2
3.0	Scope	Page 2
4.0	Policy and Procedures Statement	Page 2
5.0	Types of Sex Establishment	Page 3
6.0	Waivers	Page 6
7.0	Application Process	Page 6
8.0	Commenting on Licence Applications	Page 8
9.0	Determination of Application	Page 9
10.0	Fees	Page 12
11.0	Definitions and Guidance	Page 12
12.0	Policy Details	Page 17
13.0	Engagement	Page 17
14.0	Communicating the Policy	Page 18
15.0	Exchange of Information	Page 18
Appendix A	Newspaper Advertisement example	Page 19
Appendix B	Standard Conditions Sex Shops & Cinemas	Page 20
Appendix C	Standard Conditions Mail Order Premises	Page 26
Appendix D	Standard Conditions Sexual Entertainment Venues	Page 29
Appendix E	Application Form	Page 36

1.0 Introduction

- 1.1 This policy has been drafted as a result of new provisions that allow the Council to regulate Sex establishments and similar venues.
- 1.2 South Derbyshire District Council has adopted schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 subsequently called “the Act” with regard to Sex Cinemas and Sex Shops in 1982. The Council has now reaffirmed adoption (as amended by Section 27 of the Policing and Crime Act 2009) on the [date to be inserted] so that sex shops, sex cinemas, and sexual entertainment venues can be licensed by the Council. In this policy, we refer to these as “sex establishments” unless we say otherwise.

2.0 Purpose and Aim of the Policy

- 2.1 The policy is intended to set out clear and concise guidance, procedure and principals for the benefit of the Licensing Authority, the community, applicants and other relevant organisations.
- 2.2 The policy also contains standard conditions, which will be applied to the different types of sex establishment, which forms part of any licence granted.

3.0 Scope

- 3.1 This policy relates to any premises wishing to operate as a Sex Shop, Sex Cinema or Sexual Entertainment Venue in the South Derbyshire District.
- 3.2 Not all premises will automatically require a licence. Where there is an exemption within the legislation this has been set out in this policy document.
- 3.3 Notwithstanding matters contained within this policy document consideration will be given to the provisions of the Human Rights Act 1998 when considering applications for Sex Establishment licences.
- 3.4 When considering applications for a Sexual Entertainment Venue licence, the Licensing Authority must have regard to this Policy and the Home Office guidance issued in March 2010 entitled “Sexual Entertainment Venues – Guidance for England and Wales.

4.0 Policy and Procedures Statement

- 4.1 This Policy became effective on XXXXXXXX, and supersedes any previous policies.
- 4.2 The Council does not take a moral stance through the adoption of this policy. We recognise that Parliament has made it lawful to operate a sex establishment, and that such businesses are a legitimate part of the retail and leisure industries. It is our role as a licensing authority to regulate such premises in accordance with the law.

SEX ESTABLISHMENT LICENSING

5.0 Types of Sex Establishment

- 5.1 There are 3 types of sex establishments; Sex Shops, Sex Cinemas and Sexual Entertainment Venues.
- 5.2 Not all of these premises automatically require a licence. This is due to certain provisions and exemptions within the legislation. The criteria for requiring a licence are laid out below.

Sex Shop

- 5.3 The legislation defines a Sex Shop as:

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.

Sex articles are defined as:

- (a) anything made for use in connection with, or for the purpose of stimulating or encouraging –
 - (i) sexual activity; or
 - (ii) acts of force or restraint which are associated with sexual activity; and
- (b) anything to which sub-paragraph (4) below applies.

This sub-paragraph applies –

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

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

Sex Cinema

5.4 The legislation defines a Sex Cinema as:

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 are licensed under Section 1 of the Cinemas Act 1985, of their use or purpose for which a licence under that section is required; or
- (b) of their use for an exhibition to which Section 6 of that Act (certain non-commercial exhibitions) applies given by an exempted organisation within the meaning of Section 6(6) of that Act.

Sexual Entertainment Venue

5.5 “the Act” defines at Schedule 3, Sexual Entertainment Venue as:

- (1) Any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer.
- (2) In this paragraph “relevant entertainment” means—
 - (a) any live performance; or
 - (b) any live display of nudity;

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

- (3) The following are not sexual entertainment venues for the purposes of this Schedule—
- (a) sex cinemas and sex shops;
 - (b) premises at which the provision of relevant entertainment as mentioned in sub-paragraph (1) is such that, at the time in question and including any relevant entertainment which is being so provided at that time—
 - (i) there have not been more than eleven occasions on which relevant entertainment has been so provided which fall (wholly or partly) within the period of 12 months ending with that time;
 - (ii) no such occasion has lasted for more than 24 hours; and
 - (iii) no such occasion has begun within the period of one month beginning with the end of any previous occasion on which relevant entertainment has been so provided (whether or not that previous occasion falls within the 12 month period mentioned in sub-paragraph (i));
 - (c) premises specified or described in an order made by the relevant national authority.

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

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

(14) In this paragraph—

“audience” includes an audience of one;

“display of nudity” means—

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

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

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

“premises” includes any vessel, vehicle or stall but does not include any private dwelling to which the public is not admitted;

and for the purposes of sub-paragraphs (1) and (2) it does not matter whether the financial gain arises directly or indirectly from the performance or display of nudity.”

6.0 Waivers

- 6.1 Applications can be made to waive the requirement for a sex establishment licence.
- 6.2 The Licensing Authority does not consider it would be appropriate to permit waivers from the requirements to hold a sex establishment licence in respect of Sex Shops and Sex Cinemas, except in extreme circumstances considered by the Licensing and Appeals Sub Committee (for example, to allow a temporary re-location of a business following damage to licensed premises or the necessity to licence a sex clinic for which the legislation was not intended to control).
- 6.3 Potential applications for the use of waivers goes wider, A proprietor may wish to obtain a waiver for the avoidance of doubt, such as nude scene in a burlesque show, lingerie shop with some shelves containing sex articles, or potentially a new main stream cinema that wishes to show a festival of erotic films. The waiver is useful to deal with Borderline Cases, Correction of errors and Minor or temporary events – see paragraph 6.5
- 6.4 In all cases, the authority could legitimately decide that it requires the event to be licensed, but is given a discretion to decide that imposing the full demands of the licensing system is unreasonable or inappropriate.
- 6.5 The legislation allows relevant entertainment on an infrequent basis of no more than eleven occasions within a 12-month period, providing there is at least one month between each period of entertainment which itself does not last for more than 24 hours.

7.0 Application Process

- 7.1 Applications must be submitted to the Licensing Authority together with the application fee, applications may be submitted online. The application form can be used for grant, variation, transfer and renewal applications. The application must be copied by the applicant to the Chief Officer of the Derbyshire Constabulary within 7 days after the date the application was made.
- 7.2 Applicants must provide their name, address and, where the applicant is an individual, their age, plus the premises address and the proposed licensed name of the premises.
- 7.3 Applicants must, at the time of submission of a new grant or variation application, provide a scheme showing the exterior design for consideration by the Licensing Authority before the premises are opened for business in order to ensure that exterior design of the premises shall be such that the interior of the premises is invisible to passers-by.

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

7.5 Applicants for Sexual Entertainment Venues must also submit a copy of their "House Rules". Such House Rules must contain the required conduct of performers which shall include matters containing conditions of licence. Such House Rules may form part of the licence (if granted) and may be subject to amendment by the Licensing Authority prior to approval.

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

7.6 Applicants (other than applicants for variation of licence) must also give public notice of the application by publishing an advertisement in a local newspaper. This must be published within 7 days of making the application. If the application relates to a premises then there is an additional requirement for notice of the application to be displayed for 21 days on or near the premises where it can be conveniently read by the public. The notice, the form of which is prescribed by the Licensing Authority, must contain the specified information. It is preferred that the advertisement for the premises is placed within the Burton Mail or Derby Evening Telegraph which ever is the most appropriate.

7.7 Please note that with regard to online applications tacit authorisation does not apply to new grant applications for sex establishment licences. This means you must wait for the Licensing Authority to determine your application before you can operate a sex establishment.

7.8 If an application is for the renewal a sex establishment licence, the premises can continue to operate past the licence expiry date; provided that the renewal application has been submitted to the Licensing Authority before the licence expires. The Licensing Authority will notify you of the decision.

Plan Requirements for all Applications

7.9 The plan shall show:-

a) The extent of the boundary of the building, if relevant, and any external and internal walls of the building and, if different, the perimeter of the premises;

b) The location of points of access to and egress from the premises;

c) the location of escape routes from the premises;

- d) in case where the premises is to be used for more than one licensable activity, the area within the premises used for each activity;
- e) fixed structures (including furniture) in a fixed location which may impact on the ability of individuals on the premises to use exits or use escape routes without impediment;
- f) in cases where the premises include a stage or raised area, the location and height of each stage or area relative to the floor;
- g) in the case where the premises includes any steps, stairs, elevators or lifts the location of these items;
- h) the location of all public conveniences and the numbers of urinals, wc's and wash hand basins in each one;
- i) the location and type of any fire safety and any other safety equipment.
- j) the location of any kitchen on the premises

The plan shall be drawn to a scale of 1:100 unless the licensing authority agrees an alternative scale. The plan may include a legend through which the matters mentioned or referred to above are sufficiently illustrated by the use of symbols on the plan.

8.0 Commenting / Consultation on Licence Applications

- 8.1 Unlike some other licensing regimes (such as for alcohol, entertainment, or gambling), a wide range of people can raise objections about sex establishment licences. The police are a statutory consultee for all applications.
- 8.2 Although applicants are only required to provide notice of the application to the police, the Licensing Service will publish any sex establishment premises applications on the Council's website, to allow the public to view basic details and provide contact number(s) for the office processing the application.
- 8.3 Objectors should limit their objection to matters which are relevant to the statutory grounds for refusal as set out in the 1982 Act. An objection must be made in writing and state the grounds on which the objection is made. Objections may only be made within the period of 28 days following the date on which the application was given to the Council.
- 8.4 The Council will not consider any objection that does not contain the name and address of the person making it. Where objections are made the Council will provide copies to the applicant. The Council **will not divulge the identity of the objector's**, to the applicant without their permission to do so "the Act" section 8(17) Schedule 3 .

- 8.5 Objectors can include residents'/tenants' associations, community associations and trade associations or business or statutory authority. Councillors and MPs may also raise objections. Elected South Derbyshire Councillors may represent interested parties, providing they do not also sit on the Licensing and Appeals Sub Committee, considering the application.
- 8.6 Valid objections will be considered by the Licensing and Appeals Sub Committee at the hearing to consider the application. Applicants and objectors will be given an equal opportunity to state their case.
- 8.7 Objections must be made in writing (email is acceptable) and should include the following:
- the name and address of the person or organisation making the Objection
 - the premises to which the objection relates
 - the proximity of the premises to the person making the objection; a sketch map or plan may be helpful to show this
 - the reasons for making the objections, which are clearly set out in relation to the grounds for refusal.
- 8.8 The Consultation period will be for 28 days, starting from the first working day after the date a valid application is accepted by the Licensing Section.
- 8.9 The following organisations / persons will be notified and will be able to provide representations to all applications:
- Local elected members;
 - Relevant Parish or Town Council;
 - Fire Authority;
 - Planning Authority;
 - Environmental Health Section;
 - Children and Young people's services
 - Licensing Section

The Derbyshire Constabulary are automatic consultees

9.0 Determination of Applications

- 9.1 The Licensing Authority is NOT permitted to grant a licence due to the following Mandatory grounds :
- (a) a person under the age of 18;
 - (b) a person who is for the time being disqualified from holding a licence following revocation of such a licence;
 - (c) a person, other than a body corporate, who is not resident in the united Kingdom or was not so resident throughout the period of 6 months immediately preceding the date when the application was made; or

- (d) a body corporate which is not incorporated in the united Kingdom.
- (e) a person who had, within a period of 12 months immediately preceding the date when the application was made, refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal;

Please note there is no right of appeal against refusal on these grounds.

- 9.2 If none of the above applies to the applicant and no objections have been received and there are no other statutory grounds for refusal, including that the application does not exceed any permitted numbers, the application will be granted by way of delegated authority.

However if any objections have been received, or if there are concerns regarding the characteristics of the locality, the application will be referred to the Council's Licensing and Appeals sub Committee for a hearing of the application.

- 9.3 The Licensing Authority may refuse an application for the grant, variation or renewal of a licence on one or more of the following discretionary 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 such a licence if he made the application himself;
 - (c) that the number of sex establishments, or of sex establishments of a particular kind, in the relevant locality at the time the application is determined is equal to or exceeds the number which the authority consider is appropriate for that locality;
 - (d) that the grant or renewal of the licence would be inappropriate, having regard to the character of the relevant locality or to the use to which any premises in the vicinity are put, or to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.
 - (e) *NOTE: Nil may be an appropriate number for the purposes of paragraph (3)(c) above.*
- 9.4 Each application will be decided upon its own merits. The Licensing Authority will not apply a rigid rule to its decision making.

- 9.5 When issuing a Sex Establishment Licence the Licensing Authority is permitted to issue it on such terms and conditions and subject to restrictions as specified at the time the licence is issued.

In addition to this the council has the power to make standard conditions applicable to all licences for sex establishments.

- 9.7 It is an offence to breach the conditions and the penalty for this is a fine not exceeding £20,000.
- 9.8 Details of the standard conditions and examples of Public Notices Forms and news paper advertisements relating to each type of licence are contained in Appendices A - E. Should these standard conditions be amended at any time in the future, they would apply to all licences already issued as if the conditions had been in place at the time they were granted.

All standard conditions will be reviewed as part of the full Policy review.

9.9 **Length of licence**

The Licensing Authority will, unless there are exceptional reasons otherwise, grant licences for the maximum duration of one year to provide certainty to those operating businesses.

9.10 **Right to appeal a decision**

If an application is refused following a hearing, then the applicant will be informed of the decision and whether there is any right of appeal.

Appeals must be made to the local magistrates' court within 21 days, starting from the date the applicant is notified of the Licensing Authority's decision. The notice will advise the address of the appropriate Magistrate's Court to which such an appeal should be submitted. It should be noted that a fee may be payable to the magistrates to lodge such an appeal.

Applicants can appeal against the refusal of a grant, renewal, variation or transfer application, or against the decision to revoke a licence. They can also appeal against conditions or restrictions imposed.

Please note that you cannot appeal against the Licensing Authority's decision if the application was refused on the grounds that:

- that the number of sex establishments, or of sex establishments of a particular kind, in the relevant locality at the time the application is determined is equal to or exceeds the number which the authority consider is appropriate for that locality; or
- the grant of the licence would be inappropriate considering the character of the area, the nature of other premises in the area, or the premises themselves.

The Magistrates' court will determine the appeal application.

10.0 Fees

- 10.1 The appropriate fees for applications can be found on the Council's website. Application fees must be paid in full at the time of submission of the application.

11.0 Definitions & Guidance Documentation

11.1 Relevant Localities

In considering the characteristics of a locality the Licensing Authority shall particularly take account of the density and proximity of:

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

11.2 Numerical Limits

The Licensing Authority can refuse applications for new or renewed licences where the number of sex establishments in the relevant locality at the time the application is made is equal to or exceeds the number the number which we consider appropriate for that locality;

11.3 Operation of CCTV to the Council's / Derbyshire Constabulary satisfaction

CCTV REQUIREMENT – The Applicant shall ensure that CCTV is installed and maintained to the satisfaction of the Police and Licensing Officers and shall ensure :-

1. a minimum of one high resolution colour day/night camera, complete with an auto iris vari-focal lens, fitted in a heated weatherproof external housing, for external coverage of entrances.
2. A minimum of one high-resolution colour camera complete with an auto iris vari-focal lens shall be fitted to each public entrance/exit. Door entrance cameras must be capable of providing good quality head and shoulder images of persons entering/leaving the premises, in order to provide assistance with identification of patrons, if required.

3. There must be sufficient cameras located within the premises to cover all public areas, that are capable of providing good quality head and shoulder images of persons within the premises (in order to provide assistance with identification of patrons, if required). These cameras must be able to operate within the normal operational lighting levels of the premises.
4. Lighting in the foyer and outside must be of sufficient brightness to enable camera images to be recorded to the quality stated at condition 2 above.
5. All equipment shall have constant time/date generation. This shall include a system to ensure automatic update in relation to the beginning and end of British Summer Time etc. If the system is not capable of achieving this requirement the [Licence holder or a nominated person](#) must ensure that a manual facility is available to carry out this update as an alternative.

Recording/image capture system

1. The system must be capable of downloading/copying all the stored CCTV footage to another medium in its native format, i.e. an external hard driver that can be played back via a windows based computer.
2. There shall be sufficient members of trained staff available during the hours of operation of the premises to be able to download evidence at the request of the Police or an Authorised Officer of the Council.
3. CCTV warning signs shall be fitted in public areas of the premises.
4. The CCTV system must be maintained and checked every twelve months to ensure the system is operating correctly. The installing/maintenance company must produce a letter confirming that the system is fully functional and meets the specified requirements.
5. Recordings **must** be kept for a minimum of 31 days.
6. Recordings of incidents at the premises must be made secure for inspection by the Police and or Licensing Officers.
7. An Authorised Officer may, at any time, request a recording. Failure to comply with this request will be regarded as a serious breach of this condition.
8. The Licence holder or a nominated person must be able to demonstrate that they operate a recording management system that prevents recordings being tampered with, stolen, misplaced. This should include a back-up system to ensure there is no failure to record. Recording equipment shall be housed in a secure room/cabinet where access and operation is strictly limited to authorised persons.

9. Unauthorised persons should not be allowed access to the system or view personal data as it could contravene the Data Protection Act or jeopardise any criminal investigation.
10. In the event of a system malfunction, the Licence holder or a nominated person must immediately notify South Derbyshire Licensing Authority **Tel:01283 595890** and Derbyshire Police Licensing Department **Tel: 01332 613255**. Details of such malfunction must be recorded in the premises incident book. Arrangements for its repair must be made without delay. The Licensing Authority and Police Licensing must be notified when the operation of the system is restored.

11.4 ID Checks

To ensure customers are over the age of 18 premises should operate a "Challenge 25" policy, whereby if a customer appears to be under that age an adequate ID check is carried out. This would require photographic ID to be checked and only current passports and driving licences should be accepted for this purpose. If customers are unable to provide such forms of ID to establish their age then they must be refused entry.

11.5 Protection of Children and Vulnerable persons from Harm

This includes protection from physical, mental or emotional harm.

11.6 SIA Registered Door Supervisors

Only door supervisors who hold a valid Door Supervisors licence issued by the Security Industry Authority (SIA) should be employed.

SEX SHOPS

11.8 Significant Degree & Sex Articles

Licences for sex shops are required where there 18R films are being sold, or where there is a "significant degree" of "sex articles".

The phrase "sex articles" is defined in the 1982 Act, but the phrase "a significant degree" is not. When considering whether or not a business is selling a significant degree of sex articles and needs a licence, we will consider:

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

Sex articles are defined as:

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

This sub-paragraph applies-

- (a) to any article containing or embodying matter to be read or looked at or anything intended to be used, either alone or as one of a set, for the reproduction or manufacture of any such article ; and
- (b) to any recording of vision or sound, which -
 - (i) is concerned primarily with the portrayal of, or primarily deals with or relates to, or is intended to stimulate or encourage, sexual activity or acts of force or restraint which are associated with sexual activity ; or
 - (ii) is concerned primarily with the portrayal of, or primarily deals with or relates to, genital organs, or urinary or excretory functions.

SEXUAL ENTERTAINMENT VENUES

11.9 Relevant entertainment

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

“Relevant entertainment” is defined in schedule 3 (as amended by section 27 of the Policing and Crime Act 2009) as “any live performance or live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of an audience (whether by verbal or other means).” An audience can consist of just one person, e.g. in a private booth.

In deciding whether entertainment is “relevant entertainment” the Licensing Authority will judge each case on its merits, but will generally apply to:

- (1) lap dancing
- (2) pole dancing
- (3) table dancing
- (4) strip shows

- (5) peep shows
- (6) live sex shows

Adult entertainment not classed as “relevant entertainment” may still require regulation under the Licensing Act 2003.

11.10 Nudity

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

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

For further information in relation to regulation of Sexual Entertainment Venues please refer to the Home Office Guidance issued in March 2010 entitled “Sexual Entertainment Venues – Guidance for England and Wales”.

11.11 Suitable number of trained staff

Conditions require that the Licensee must ensure that a suitable and sufficient number of trained staff are employed to supervise the interior of the Premises (“floor supervisors”) to ensure that conditions of licence are complied with, in particular the no touching conditions, and to ensure the safety of performers.

A suitable and sufficient number should be determined by carrying out a risk assessment of activities carried out, design of the premises including accessibility to all areas, number of performers and should be linked to the capacity of the premises.

GUIDANCE DOCUMENTATION

11.12 Form of Notice – Indecent Displays (Control) Act 1981

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

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

“WARNING

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

- (b) The word “WARNING” must appear as a heading.

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

Notice of application

- 11.13 The notice can be downloaded from the Council's website. A copy of the newspaper advertisement is attached at Appendix A and the Public Notice affixed to the premises is included with the application pack at Appendix E.

12.0 Policy Details

- 12.1 In developing this policy the Council have had regard to the legal requirements of the 1982 and 2009 Acts and our duties under:
 - (a) Section 17 of the Crime and Disorder Act 1998 to take due regard to reduce crime and disorder within the County;
 - (b) the Regulators' Compliance Code (set out under the Legislative and Regulatory Reform Act 2006) not to impede economic progress by the regulations we set out and to particularly consider the impact of regulations on small businesses; and
 - (c) the Provision of Services Regulations 2009 to ensure requirements are:
 - (i) non-discriminatory
 - (ii) justified by an overriding reason relating to the public interest
 - (iii) clear and not unduly complicated
 - (v) objective and impartial, and
 - (vi) made public in advance,

13.0 Engagement

- 13.1 The Council consulted on this policy and conditions between XXXXXX and XXXXXX and it was approved by the XXXXXXXXXXXX on XX XXXXXX 2010 and adopted by the Council on XXXXXXXXXXX 2010.
- 13.2 Details of applications and objections which are referred to the Licensing & Appeals Sub Committee for determination will be published in reports that are made publicly available in accordance with the Local Government Act 1972 and the Freedom of Information Act 2000. It should, however, be noted that certain items or information may have to be excluded from the public domain. as permitted by Local Government Act 1972.
- 13.3 The names and address of objectors will not be disclosed to applicants or published in public reports in accordance with Section 8 (17) of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982. Such details will be made available to Councillors on the Licensing and Appeals Sub Committee.

14.0 Communicating the Policy

- 14.1 This policy will be available on the Council's website and will be made available at Council offices. In addition any responsible authorities will be provided with a copy of this policy document.
- 14.2 The adoption or any amendment of the policy will be communicated to the community by way of press release and on the Council's website. Persons having been actively involved in any consultation on the policy will be notified directly.

15.0 Exchange of Information

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

APPENDIX A

SITE NOTICE AND NEWSPAPER ADVERTISEMENT [Delete]

SEX ESTABLISHMENT LICENCE APPLICATION

Notice of Application for grant/ renewal /transfer [delete as applicable] of a sex establishment licence pursuant to Schedule 3 Local Government Miscellaneous Provisions Act 1982

TAKE NOTICE that on [date] [name(s) of Applicant(s)] applied to South Derbyshire District Council for the grant / renewal / transfer / [delete as applicable] of a sex establishment licence.

NAME AND ADDRESS OF PREMISES / LOCATION OF VEHICLE / VESSEL /STALL [delete as appropriate]

[note, the precise address or location, sufficient to identify the location and extent of the premises, vehicle, vessel or stall, must be given]

DAYS AND HOURS OF OPERATION

ACTIVITY: Sex shop/sex cinema/ sexual encounter venue [delete as applicable]

INSPECTING THE APPLICATION: The application may be inspected at South Derbyshire District Council Offices, Civic Way, Swadlincote, Derbyshire DE11 0AH

OBJECTIONS: Any person wishing to make objections on the application shall do so in writing at the Council Offices at South Derbyshire District Council Offices, Civic Way, Swadlincote, Derbyshire DE11 0AH or by e mail at licensing2@south-derbys.gov.uk. The grounds of the objection must be stated in general terms. The objection must be received by the Council no later than [insert 28 days after the date of application]

Signed.....Date.....

Name..... Organisation.....

Address.....

Notes:

1. Enter full details of the application on this form.
2. Affix a copy of the completed form on pink A3 paper in Black 20 Point Times Roman Font. to the exterior of the premises, to which the application relates, in a prominent position for public viewing on the day of making application. You must ensure that the completed form remains in position for 21 days.
3. The content of the form, as completed, must be published in a local newspaper within 7 days of making the application.

APPENDIX B

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

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

Introduction

1. In these Conditions “The Council” shall mean South Derbyshire District Council and all enquiries concerning this licence shall be directed to the Licensing Section, South Derbyshire District Council Civic Offices Civic Way, Swadlincote Derbyshire DE11 0AH.
2. These conditions are imposed by the Council pursuant to its powers under paragraph 13 (1) of Schedule 3 to the above Act as terms, conditions and restrictions on a subject to which a licence is in general to be granted, renewed or transferred by the Council save and insofar as they do not conflict with the provisions of the Act itself.
3. These conditions are only applicable to “Sex Shop and Sex Cinema” premises.

Management of the Premises

4. The Licensee or some responsible person, over the age of 18, nominated by him and approved in writing by the Council for the purpose of managing the sex establishment (“the manager”) shall have personal responsibility for and be present on the Premises at all times when the Premises are open to the public. A form will be provided for this purpose.
5. Where the Licensee is a body corporate or an incorporated body, any change of director, company secretary or other person responsible for the management of the body shall be notified in writing to the Council within 14 days of such change and such written details as the licensing authority may require in respect of the change of personnel shall be furnished within 14 days of a request in writing from the Council.
6. A copy of the licence and of these Regulations / special conditions are required to be exhibited in accordance with paragraph 14(1) of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982. It shall at all times be displayed in a conspicuous position, in clear view of the public and reproduced to the same scale as those issued by the Council, and available for inspection by the police, the fire authority, and authorised officers of the Council.
7. The name of the person responsible for the management of the Premises, whether the Licensee or the manager, shall be displayed in a conspicuous position within the Premises throughout the period during which he is responsible for the conduct of the Premises.

8. The Licensee shall retain control over all parts of the Premises and shall not let, licence or part with possession of any part. The Council must be immediately notified in the event that any part of the Premises is affected by the termination of a lease or other event affecting the Licensee's control of the Premises.
9. The Licensee shall ensure that the public is not admitted to any part of the Premises that has not been licensed, other than toilet facilities where provided for customers.
10. Neither the Licensee nor any employee or agent shall personally solicit custom for the sex establishment outside or in the locality (village, town or city) of the Premises.
11. The Licensee shall ensure that during the hours that the Premises are open for business every employee wears a badge of a type approved by the Council indicating his name and that he is an employee.
12. The Licensee shall maintain a daily register in which shall be recorded the name and address of any person who is to be responsible for managing the Sex Establishment in the Licensee's absence and the names and addresses of those employed in the Sex Establishment. The Register is to be completed each day within thirty minutes of the Sex Establishment being opened for business and is to be available for inspection by the police and by authorised officers of the Council.
13. The Licensee shall take all reasonable precautions for the safety of the public and employees.
14. No person under the age of 18 shall be admitted to the Premises.
15. The Licensee shall adopt a procedure to check the age of customers entering the shop who appear to be younger than 25 in order to ensure that they are not under the age of 18.
16. All persons working in the premises, including Performers, shall be aged not less than 18 years. The Licensee must maintain adequate records of the names, addresses and dates of birth of performers including adequate identity checks.
17. The Licensee shall ensure a closed-circuit television system is installed internally and externally to the satisfaction of the Council and Derbyshire Constabulary, in accordance with the Policy. Appropriate notices must be displayed in accordance with the Data Protection Act 1998, advising that CCTV is in operation. In addition the Licensee must ensure that the requirement under that Act regarding registration with the Data Protection Commissioner is complied with.
18. CCTV recordings will be made available for viewing by authorised officers of the licensing authority or the police. Copies of such recordings must be provided upon request.

19. CCTV must be capable of monitoring the whole of the premises, in particular any private booths or rooms to ensure the safety and security of performers and other persons within the premises. A dedicated member of staff or security personnel must monitor the CCTV system at all times that the premises are in operation.
20. The Licensee shall provide upon request copies of any documents reasonably required by an authorised officer of the Council in relation to compliance with this Licence.

Opening of the Premises

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

Monday – Saturday 09:00 Hrs – 18:00 Hrs
22. The Premises shall not, without the written consent of the Council, be opened and used for the purposes for which the licence is granted on Sundays, or Bank or Public Holidays.

Operation of the Premises

23. No change from a sex shop (including a mail-order shop) to either a sex cinema or sex entertainment venue, or change from sex cinema to either a sex shop or sex entertainment venue, or from a sex entertainment venue to either a sex cinema or a sex shop shall be made without the approval of the Council. This will require consideration of an appropriate application.
24. No sex articles or other things intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity shall be displayed, sold, hired, exchanged, loaned or demonstrated in a sex cinema or a sexual entertainment venue.
25. The primary use of a sex shop must be for the purpose of the sale of goods by retail.

External Appearance

26. A notice stating that no person under the age of 18 shall be admitted to the premises must be displayed on the outside of the Premises. The notice must also include a statement that proof of age may be requested.
27. The exterior design of the premises shall be such that the interior of the premises is not visible to persons outside of the premises.
28. The windows and openings of the Premises shall be of a material or covered with a material, which will render the interior of the Premises invisible to passers-by.

29. No items should be stored on the premises so that they can be viewed from any external window or door.
30. The windows, doors, fascia board, walls and all external parts of the premises including the roof shall not contain any form of writing, sign or display save for:
 - (i) The licensed name of the premises(as explained in paragraph 40 hereof) may be displayed, unless the Council determines that the name is of a profane or sexual nature or gives other cause for concern.
 - (ii) The form of warning notice required to be displayed by virtue of the provisions of Section 1(6) of the Indecent Displays (Control) Act 1981.
 - (iii) A notice stating the opening hours of the establishment.
 - (iv) The wording "PRIVATE SHOP" or "ADULT SHOP" but no other indication as to the nature of the business carried on at the licensed premises.
31. The lettering used in respect of such permitted items:-

In the case of the permitted items at paragraph 24 & 28 the lettering used shall not exceed 15 cm (approximately 6" inches) in height for each letter.
32. (a) No other words or signs, or any displays or advertisements, shall be displayed on the outside of the Premises or in the vicinity of the Premises, except those mentioned in conditions 24 and 28 or otherwise approved by the Council in writing;
- (b) No external loudspeakers may be installed.

State, Condition and Layout of the Premises

33. Notwithstanding the Licensee's duties under the Health and Safety at Work etc Act 1974 and related legislation and his obligations under any lease or other agreement for the use of the Premises, he shall maintain the Premises in good repair and condition.
34. External doors shall be closed at all times other than when persons are entering or leaving the Premises. The external doors shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.
35. The Premises shall be fitted with an inner entrance door or screen so that no part of the interior of the Premises or any of the contents of the premises shall be visible when persons are entering or leaving the Premises. Such inner entrance door or screen shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order. All exit doors shall be clearly marked exit on the inside and doors or opening which the public are not allowed access should be clearly marked "private"

36. No access shall be permitted through the Premises to any other Premises adjoining or adjacent except in the case of emergency.
37. Lighting shall be in operation continuously during the whole of the time that the Sex Establishment is open to the public.
38. Alterations or additions, either internal or external, shall not be made to the Premises without prior written consent from the Council. A variation application will be required in order for consent to be considered.
39. Any facilities for previewing films, video recordings or other similar material shall be physically separated from the display area of the shop in such a manner that no material being displayed by way of preview shall be visible or audible outside the preview area.
40. No fastenings of any description shall be fitted upon any booth or cubicle within the Sex Establishment nor shall more than one person (including any employee be present in any such booth or cubicle at any time). Appropriate fastenings are permitted on toilet doors.

Goods Available in Sex Establishments

41. All Sex Articles as defined in Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 and other things displayed for sale, hire, exchange or loan within a the shop shall be clearly marked to show to persons who are inside the Sex Shop the respective prices being charged.
42. All printed matter, DVD, video and other formats capable of storing readable/viewable material offered for sale, hire, exchange or loan shall be openly displayed and available for inspection prior to purchase and a notice to this is effect is to be prominently displayed inside the Sex Establishment. (This regulation does not require that films or video films be exhibited (played) to customers).
43. No film, DVD, or video recording (or computer game, or other formats capable of storing readable/viewable material) shall be exhibited, sold or supplied unless it has been passed by the British Board of Film Classification and bears a certificate to the effect.

Information for Customers

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

Licensed Name

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

APPENDIX C

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

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

INTRODUCTION

1. In these Conditions "The Council" shall mean South Derbyshire District Council and all enquiries concerning this licence shall be directed to the Licensing Section South Derbyshire District Council, Civic Offices , Civic Way, Swadlincote Derbyshire DE11 0AH.
2. These conditions are imposed by the Council pursuant to its powers under paragraph 13 (1) of Schedule 3 to the above Act as terms, conditions and restrictions on a subject to which a licence is in general to be granted, renewed or transferred by the Council save and insofar as they do not conflict with the provisions of the Act itself.
3. These conditions are only applicable to a "Mail-Order Sex Shop" premises.

Management of the Premises

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

9. The Licensee shall ensure that the public is not admitted to any part of the Premises. No person under the age of 18 years will be admitted to the premises at any time, for whatever reason or purpose.
10. All persons working in the premises, including Performers, shall be aged not less than 18 years. The Licensee must maintain adequate records of the names, addresses and dates of birth of performers including adequate identity checks.
11. Neither the Licensee nor any employee or agent shall personally solicit custom for the sex establishment outside or in the locality (village, town or city) of the Premises.
12. The Licensee shall maintain a daily register in which shall be recorded the name and address of any person who is to be responsible for managing the Sex Establishment in the Licensee's absence and the names and addresses of those employed in the Sex Establishment. The Register is to be completed each day within thirty minutes of the Sex Establishment being opened for business and is to be available for inspection by the police and by authorised officers of the Council.
13. The Licensee shall take all reasonable precautions for the safety of employees.
14. The Licensee shall provide upon request copies of any documents reasonably required by an authorised officer of the Council in relation to compliance with this Licence.

Operation of the Premises

15. No change from a sex shop (including a mail-order shop) to either a sex cinema or sex entertainment venue, sex cinema to either a sex shop or sex entertainment venue, or from a sex entertainment venue to either a sex cinema or a sex shop shall be made without the approval of the Council. This will require consideration of an appropriate application.
16. No sex articles or other things intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity shall be displayed, sold, hired, exchanged, loaned or demonstrated in a sex cinema or a sexual entertainment venue.
17. The sex establishment shall be used exclusively for 'mail-order' purposes only, selling sex articles and other articles that do not fall within the definition of sex articles in Schedule 3, paragraph 4(3) of the Local Government (Miscellaneous Provisions) Act 1982.
18. All advertisements, catalogues, sales documents used in connection with the business intended or likely to be seen by customers will clearly and prominently state "MAIL ORDER ONLY". All deliveries/despaches of parcels shall be in plain wrapping not identifying what is inside.

External Appearance

19. No external nameplate, advertisement board or any other written or pictorial or graphic display connected with the business shall be observable from outside the building, or from other units within the building or from the common parts of the building.
20. The exterior design of the premises shall be such that the interior of the premises is invisible to passers-by.
21. The windows and openings of the Premises shall be of a material or covered with a material, which will render the interior of the Premises invisible to passers-by.
22. No items should be stored on the premises so that they can be viewed from any external window or door.

State, Condition and Layout of the Premises

23. Notwithstanding the Licensee's duties under the Health and Safety at Work etc Act 1974 and related legislation and his obligations under any lease or other agreement for the use of the Premises, he shall maintain the Premises in good repair and condition.
24. External doors shall be closed at all times other than when persons are entering or leaving the Premises. The external doors shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.
25. No access shall be permitted through the Premises to any other Premises adjoining or adjacent except in the case of emergency.
26. Alterations or additions, either internal or external, shall not be made to the Premises without prior written consent from the Council. A variation application will be required in order for consent to be considered.

Goods Available in Sex Establishments

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

Licensed Name

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

APPENDIX D

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

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

INTRODUCTION

1. In these Conditions "The Council" shall mean South Derbyshire District Council and all enquiries concerning this licence shall be directed to the Licensing Section South Derbyshire District Council, Civic Offices, Civic way, Swadlincote Derbyshire DE11 0AH.
2. These conditions are imposed by the Council pursuant to its powers under paragraph 13 (1) of Schedule 3 to the above Act as terms, conditions and restrictions on a subject to which a licence is in general to be granted, renewed or transferred by the Council save and insofar as they do not conflict with the provisions of the Act itself.
3. These conditions are only applicable to a "Sexual Entertainment Venue" premises.

Management of the Premises

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

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

19. CCTV must be capable of monitoring the whole of the premises, in particular any private booths or rooms to ensure the safety and security of performers and other persons within the premises. The CCTV system must be monitored by a dedicated member of staff or security personnel at all times that the premises are in operation.
20. The Licensee shall ensure that neither they nor any person promoting or providing entertainment on the Premises (nor any person acting on behalf of any such person) shall display advertisements promoting the entertainment or the Premises in any unlawful manner.
21. Where the Council have given notice in writing to the Licensee objecting to an advertisement on the grounds that, if displayed, it would offend against good taste or decency or be likely to encourage or incite to crime or to lead to disorder or to be offensive to public feeling, that advertisement shall not be displayed.
22. The Licensee shall ensure that no more members of the public shall be present on the Premises at any time whilst relevant entertainment takes place to which this licence relates where the Council has specified a number in writing on the grounds of public safety, public nuisance or crime and disorder.
23. The Licensee shall provide upon request copies of any documents reasonably required by an authorised officer of the Council in relation to compliance with this Licence.

Opening of the Premises

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

Operation of the Premises

25. No change from a sex entertainment venue to either a sex cinema or a sex shop (including a mail-order shop), or a sex shop to either a sex cinema or sex entertainment venue, or from a sex cinema to either a sex shop or sex entertainment venue, shall be made without the approval of the Council. This will require consideration of an appropriate application.
26. No sex articles or other things intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity shall be displayed, sold, hired, exchanged, loaned or demonstrated in a sexual entertainment venue or a sex cinema.

External Appearance

27. A notice stating that no person under the age of 18 shall be admitted to the premises must be displayed on the outside of the Premises. The notice must also include a statement that proof of age may be requested.
28. The exterior design of the premises shall be such that the interior of the premises is not visible to passers-by.

29. The windows and openings of the Premises shall be of a material or covered with a material, which will render the interior of the Premises invisible to passers-by. At no time shall performers or persons working in the premises be visible from outside of the Premises, with the exclusion of Door Supervisors.
30. The Licensee shall not permit the display outside of the Premises of photographs or other images which indicate or suggest that relevant entertainment takes place on the Premises.
31. The windows, doors, fascia board, walls and all external parts of the premises including the roof shall not contain any form of writing, sign or display save for:
 - (i) The licensed name of the premises (as explained in paragraph 40 hereof) may be displayed, unless the Council determines that the name is of a profane or sexual nature or gives other cause for concern.
 - (ii) The form of warning notice required to be displayed by virtue of the provisions of Section 1(6) of the Indecent Displays (Control) Act 1981.
 - (iii) A notice stating the opening hours of the establishment.
32. The lettering used in respect of such permitted items:-

In the case of the permitted items at paragraph 28 & 33 the lettering used shall not exceed 15 cm (approximately 6" inches) in height for each letter.
33. (a) No other words or signs, or any displays or advertisements, shall be displayed on the outside of the Premises or in the vicinity of the Premises, except those mentioned in conditions 27 and 33 or otherwise approved by the Council in writing;
- (b) No external loudspeakers may be installed.

State, Condition and Layout of the Premises

34. Notwithstanding the Licensee's duties under the Health and Safety at Work etc Act 1974 and related legislation and his obligations under any lease or other agreement for the use of the Premises, he shall maintain the Premises in good repair and condition.
35. External doors shall be closed at all times other than when persons are entering or leaving the Premises. The external doors shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.
36. The Premises shall be fitted with an inner entrance door or screen so that no part of the interior of the Premises or any of the contents of the premises shall be visible when persons are entering or leaving the Premises. Such inner entrance door or screen shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.

37. No access shall be permitted through the Premises to any other Premises adjoining or adjacent except in the case of emergency.
38. Lighting shall be in operation continuously during the whole of the time that the Sex Establishment is open to the public.
39. Alterations or additions, either internal or external, shall not be made to the Premises without prior written consent from the Council. A variation application will be required in order for consent to be considered.
40. No fastenings of any description shall be fitted upon any booth or cubicle within the Sex Establishment nor shall more than one person (including any employee be present in any such booth or cubicle at any time). Appropriate fastenings are permitted on toilet doors.

Provision of Relevant Entertainment

41. Performers shall only perform in specified designated areas, to seated customers or in such other areas of the licensed Premises as may be agreed in writing with the Council.
42. The Licensee is to implement a policy to ensure the safety of the Performers when they leave the Premises after a period of work.
43. Performers must remain clothed in public areas and all other areas except while performing in areas specified by the Council as where relevant entertainment may be provided.
44. At the conclusion of performances all articles of clothing removed during that performance must be put back on. This does not prevent performers going to their non-public changing area to change their attire.
45. Performers may not accept any telephone number, email address, address or contact information from any customer, except in the form of a business card which must be surrendered to the Licensee or their representative before leaving the Premises.
46. Performers may not give any telephone number, email address, address, contact information or business card to any customer or in any way solicit themselves.
47. Performers must not perform a nude table dance unless in a supervised area or within five metres of a floor supervisor.
48. Performers are never to be in the company of a customer except in an area open to the public within the Premises.
49. The Licensee must ensure that during the performance of a table or lap dance:
 - (1) customers must be seated in an upright position against the back of the booth or seat with their hands by their sides before a dancer can start a table dance;

- (2) customers must remain seated during the entire performance of the dance;
 - (3) for the purpose of restraint only, Performers may only touch a customer above the customer's chest with their hands only;
 - (4) Performers must not sit or straddle the customer;
 - (5) Performers must not place their feet on the seats.
50. The Licensee must ensure that during performances of relevant entertainment:
- (1) Performers may not perform any act that clearly simulates any sexual act;
 - (2) Performers must never intentionally touch the genitals, anus or breasts of another dancer or to knowingly permit another dancer to intentionally touch their genitals, anus or breasts;
 - (3) Performers may not intentionally touch a customer any time during the performance unless absolutely accidentally or due to a third party;
 - (4) Performers may not use inappropriate, suggestive or sexually graphic language at any time;
 - (6) Performers must not engage in communications that could be deemed as acts of prostitution or solicitation, even if the Performer has no intention of carrying out the act;
 - (7) Performers must only perform nude or semi-nude dancing (of any description) within areas specified by the Council.
51. The Licensee must ensure that during performances of relevant entertainment:
- (1) Customers may not dance at any time except in areas specifically designated by the Council as being separate from areas for sexual entertainment.
 - (2) Customers must remain appropriately clothed at all times.
52. At all times there must be no physical contact between customers and employees, or other persons working within the premises, in any part of the premises save for the following:-
- The payment of an entry fee by customers to authorised members of staff.
 - The payment of a fee for relevant entertainment.
 - The purchasing of drinks by customers from authorised members of staff.
 - The placing of bank notes by the customer in a garter worn by females or an armband worn by males.

- SIA door staff in the execution of their duties.
53. At all other times during the performance the performer will keep a minimum distance of at least 3 feet away from the customer.
 54. Relevant entertainment will only take place in specified designated areas within the premises, as identified on the plan attached to the licence.
 55. Notices outlining condition 56 will be clearly displayed at each entrance to the premises and in the specified designated areas. Notices must state that no touching relates to customers touching performers and other persons working within the premises and vice versa.
 56. Performers will stop immediately and move away from any customer who is offensive or attempts to touch them, and shall report such behaviour and any other inappropriate behaviour or breach of house rules to the management. If after receiving a warning a customer continues behave inappropriately, the customer must be requested to leave the premises and should be escorted from the premises by appropriately authorised staff only (i.e. SIA registered door supervisors).

Licensed Name

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

Prepared by C Jacobs October 2010



LOCAL GOVERNMENT (MISCELLANEOUS PROVISION ACT 1982

Application for a Licence for a Sex Establishment

(Please read the notes, requirements relating to public notices and guidance for applicants at the end of this form)

1. Is this application for Grant, Renewal, Transfer, Variation of Licence?

Grant	<input type="checkbox"/>	Renewal	<input type="checkbox"/>	Transfer	<input type="checkbox"/>	Variation	<input type="checkbox"/>
-------	--------------------------	---------	--------------------------	----------	--------------------------	-----------	--------------------------

2. Is the application being made by an individual on behalf of a partnership or corporate body?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
-----	--------------------------	----	--------------------------

3. Give the full name of the applicant (i.e. the individual, corporate body or unincorporated body to whom the licence is to issued). If the applicant is an individual, any former names must also be given:

Name(s):

4. Has any person named at any place in this application been associated in any way with any other application for a licence for a sex establishment?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
-----	--------------------------	----	--------------------------

If yes please give full details

5. Is there in force against the applicant, or any of the persons whose names appear in this application form, a disqualification from holding a licence for a sex establishment under the Local Government (Miscellaneous Provisions) Act 1982?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
-----	--------------------------	----	--------------------------

6. Give a telephone number at which the applicant may be contacted during normal office hours and the address to which communications are to be sent:

Telephone:
Address:
Post Code:

7. Give the applicant's permanent residential address (if an individual or principal office) (if a corporate body or an un-incorporated body)

Address:
Post Code:

8. If the applicant is an individual, the following information is to be supplied:

1. Date of Birth :
2. Place of Birth:
3. Date became resident of the UK :

9. Under what names are or will the premises be known?

--

10. Where the licence is sought in respect of premises, give the full address of the premises:

Address:
Post code:

11. Is the application for a Sex Shop, Sex Cinema or Sexual Encounter Venue?

Sex Shop		Sex Cinema		Sexual Encounter venue	
----------	--	------------	--	------------------------	--

12. State whether the application is in respect of premises, a vehicle, a vessel, or a stall

Premises	<input type="checkbox"/>	Vehicle	<input type="checkbox"/>	Vessel	<input type="checkbox"/>	Stall	<input type="checkbox"/>
----------	--------------------------	---------	--------------------------	--------	--------------------------	-------	--------------------------

13. Where the licence is sought in respect of a vehicle, vessel or stall. State where it is to be used as a sex establishment?

14. Are the whole of the premises described above to be used under the licence?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
-----	--------------------------	----	--------------------------

15. If the answer to question 14, above is "No" please state:

1. Which part of the premises is to be used for the purpose of the licence:

2. The use to which the remainder of the premises are to be put:

3. The name of those who are responsible for the management of the remainder of the premises

16. Are the premises, vehicle, or stall in use as a sex establishment at the date of this application?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
-----	--------------------------	----	--------------------------

17. If the applicant is a corporate body or an un-incorporated body, complete the table in respect of each of the Directors, the Company Secretary or other persons responsible for the management of the body.

In the case of a partnership, details of all the partners must be given.

Name (In Full): Mr/Mrs/other	Address of permanent residence throughout six months immediately preceding application	Date became resident of UK (if applicable)

18. Companies only:

<p>1. What type of company is applicant (e.g. public or private, limited by share or guarantee, etc ?</p> <p>2. In which country is the company incorporate?</p> <p>3. What is the date of the incorporation of the company?</p>
--

19. Has the applicant a financial interest in the business which is the subject of this application ?

Yes

No

<p>If "yes" to what extent?</p>

20. Is the whole of the business owned by the applicant?

Yes

No

21. If the applicant's interest in the premises is a lease hold one, please state:

1. Whether a head-lease or a sub lease

2. The name and address of the landlord

3. The length of the unexpired term:

22. What means are taken to prevent the interior of the premises being visible to passers by?

--

23. Give details of the times during which it is proposed to open the premises (please see conditions)

Days of the week:

Hours of the Day:

24. In respect of the individual who is to be responsible for the management of the premises in the absence of the licence holder, please supply the following details:

Forename:	Surname:
Former name (if any)	
Permanent Address:	
Post Code:	Date of Birth:
Place of Birth	

25. has the applicant or any persons named in the form **any convictions?**

Detail below:

Yes	<input type="checkbox"/>
-----	--------------------------

No	<input type="checkbox"/>
----	--------------------------

Forenames	Surname	Former Name (if any)	Date of Conviction	Place of conviction	Nature of Offence	sentence

Is there any further information that the applicant would wish the Council to take into account when considering the application?

--

Application for a Licence for a Sex Establishment

DECLARATION

I _____ declare that the information given above is true and complete in every respect.

Dated this _____ day of _____ 20

Signature _____

Name of Signatory _____

Designation of Signatory _____

APPLICANTS ARE INFORMED THAT ANY PERSON WHO, IN CONNECTION WITH AN APPLICATION FOR THE GRANT, RENEWAL OR TRANSFER OF A LICENCE, MAKES A FALSE STATEMENT WHICH HE KNOWS TO BE FALSE IN ANY MATERIAL RESPECT OR WHICH HE DOES NOT BELIEVE TO BE TRUE, IS GUILTY OF AN OFFENCE AND LIABLE, ON SUMMARY CONVICTION, TO A FINE NOT EXCEEDING £20,000

PLEASE NOTE THE APPLICATION MUST BE ACCOMPANIED BY THE FOLLOWING:

1. The appropriate fee
2. Scale plan (1:100 scale or other agreed by licensing authority) of the premises in respect of which the licence is sought showing (inter alia) all means of access and egress from the premises, parts used in common with any other building, details of how the premises lie in relation to the street and the front elevation of the building.
3. A copy of the notice of application which has been (or is to be) published in the local press in accordance with paragraph 10(8) of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982. (The advert should be legible and clear to view.)
4. Confirmation that a copy of the application has been served on the Chief Officer of Police As required by Paragraph 10 (4) of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.

NB the Confirmation certificate relating to the posting of notice on or near the premises and the copy of the actual newspaper advert need not accompany the application but should be forwarded as soon as possible.

The completed application should be returned to Licensing Section, South Derbyshire District Council, Civic Offices, Civic Way, Swadlincote, DE11 0AH
And a copy forwarded to Chief Constable of Police :

XX

PUBLIC NOTICE REQUIREMENTS

NOTE

1. A suitable Public Notice (example appears at Appendix A) must be published in a local newspaper circulating within the council's area, no later than 7 days after the date of the application.

2. The notice overleaf, or one in a similar form, must be displayed **CONTINUOUSLY** for a period of **21 DAYS** beginning with the date of your application, on or near the premises to be licensed and in a place where the notice may be conveniently be read at all times by the passing public

CERTIFICATE

(to be completed by all applicants)

I certify that a copy of the notice overleaf (or similar) was displayed on or near the premises to be licensed, in a place where the notice may conveniently be read by the public, for a period of not less than 21 days from the date of the application.

From (date)

to (date)

Signature of Applicant _____ date _____

Name of Signatory _____

Designation of Signatory _____

Note: This form must be completed, signed and returned to the licensing section at the address overleaf as confirmation that the public notice requirements have been complied with.

Please also attach a copy of the actual notice which appeared in a local newspaper to this application. This should indicate the date of publication at the top of the page.

PUBLIC NOTICE

SOUTH DERBYSHIRE DISTRICT COUNCIL

Licensing of Sex Shop / Sex Cinema / Sexual Encounter Venue

ADRESS OF PREMISES

.....
.....
.....
.....

I/We*
Hereby give notice that I/We* have applied to South Derbyshire District Council under the provisions of the Local Government (Miscellaneous Provisions) Act 1982 for a licence to use the premises referred to above as a sex shop / sex cinema / sexual encounter venue. Delete as appropriate*

Any person wishing to make representation about the application should make them in writing to the Head of Environmental Services, Licensing Section, South Derbyshire District Council, Civic Offices, Civic Way, Swadlincote, Derbyshire DE11 0AH or by e-mail licensing2@south-derbys.gov.uk within 28 days of the date of this notice.

Signed : Date**

On Behalf of:.....

* delete as appropriate.

**The date to be inserted shall be the date on which application is made to the Council.

SOUTH DERBYSHIRE DISTRICT COUNCIL

SEX ESTABLISHMENTS

GUIDANCE TO APPLICANTS ON THE DETERMINATION OF LICENCE APPLICATIONS

The Council when considering an application for a Sex Establishment Licence are likely to take into account the following issues specifically in relation to paragraph 12 (3) (c) and paragraph 12 (3) (d) (i) and (ii) of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982:

1. The proximity and position of the premises in relation to any schools, or other establishments for education, training, or care of young persons.
2. The proximity and position of the premises in relation to any youth club or similar establishment.
3. The proximity and position of the premises in relation to leisure centres used for sporting and similar activities, and play areas.
4. The proximity and position of the premises in relation to any residential dwellings
5. The proximity and position of the premises in relation to any establishments of religious worship.
6. The proximity and position of the premises in relation to Community and similar establishments.
7. The general nature and character of the locality
8. The number of any licensed sex establishments already in the locality, and what maximum number of such establishments might be permitted in the locality.

NB this list is intended for guidance only and does not restrict the Council from taking into account any other factors which it considers to be relevant to any particular application.

SPENT CONVICTIONS

Sentence

Becomes spent after:

Imprisonment of between
6 months and 2 1/2 years

10 years

Imprisonment up to 6 months

7 years

Borstal training;

7 Years

A fine or other sentence not otherwise
Covered in this table:

5 years

Absolute Discharge

6 Months