



LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

Sex Establishment Licensing Policy

**Licensing & Governance
East Devon District Council
Blackdown House, Border Road
Honiton, EX14 1EJ**

**Tel: 01395 515616
Email: licensing@eastdevon.gov.uk
www.eastdevon.gov.uk/licensing**

For the period 9 July 2019 to 8 July 2024

Contents

	Page
Foreword	3
1.0 Introduction	4
Definition of Sex Establishment	4
Geographical Location	4
Policy Development	5
Consultation	6
Amendment to Policy	6
Exchange of Information	6
Further Information	7
2.0 Primary Considerations	8
3.0 The Application and Determination Process	9
Making an Application	9
Duration of Licences	9
Commenting on Licence Applications	9
Determination of Applications	10
Conditions	11
Opening Hours	11
Refusal of Licences	11
Mandatory Grounds for Refusal	12
Discretionary Grounds for Refusal	12
Revocation of Licences	12
Cancellation of Licences	13
Appeals	13
4.0 Complaints and Enforcement	14
Appendices	
A Definition of Terms	15
B Requirements for Applying for Grant, Variation, Transfer or Renewal of a Sex Establishment Licence	18
C CCTV Standards Policy	21
D Standard Sex Shop Licesning Conditions	24
E Standard Sex Entertainment Venue Licesning Conditions	28

Foreword

This Licensing Policy sets out East Devon District Council's requirements for premises to be licensed as sex establishments within the meaning of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended by section 27 of the Policing and Crime Act 2009). This legislation shall be referred to thereafter as 'the Act'.

Section 2 of the Act provides that local authorities may resolve that Schedule 3 will apply to their area, which has the effect of requiring premises operating as sex establishments in that authority's area to be licensed. The adoption of Schedule 3 also allows the Council to set terms and conditions and fees for the grant, renewal, variation and transfer of such licences and the number of licences that may be issued in the area, which may be nil.

The Council does not take a moral stand in adopting this policy. It recognises that parliament has made it lawful to operate a sex establishment, and that such businesses are a legitimate part of the retail and leisure industries. It is the Council's role as a Licensing Authority to administer this licensing regime in accordance with the law.

1.0 Introduction

- 1.1 East Devon District Council with effect from the 1 January 1983 resolved to apply Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, providing that anyone wishing to operate a 'sex establishment' within the district must first obtain a licence from the council. At that time the term 'establishment' related to shops and cinemas used for that purpose.
- 1.2 Following the reclassification of lap dancing style premises as sexual entertainment venues by Section 27 of the Policing and Crime Act 2009 the Council resolved that with effect from the 1 February 2011 the amended Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 would apply to the District. This means that all sex establishment venues including lap dancing style premises within the East Devon District are required to be licensed by this Council.
- 1.2 This Statement of Licensing Policy for Sex Establishments sets out the council's requirements for premises to be licensed as 'sex establishments' within the meaning of the Act.
- 1.3 The information contained in the appendices attached and referred to within this policy should be read as an inclusive part of this policy document.
- 1.4 Readers are strongly advised to seek their own legal advice if they are unsure of the requirements of the Act or schedules issued under the Act.

Definition of Sex Establishment

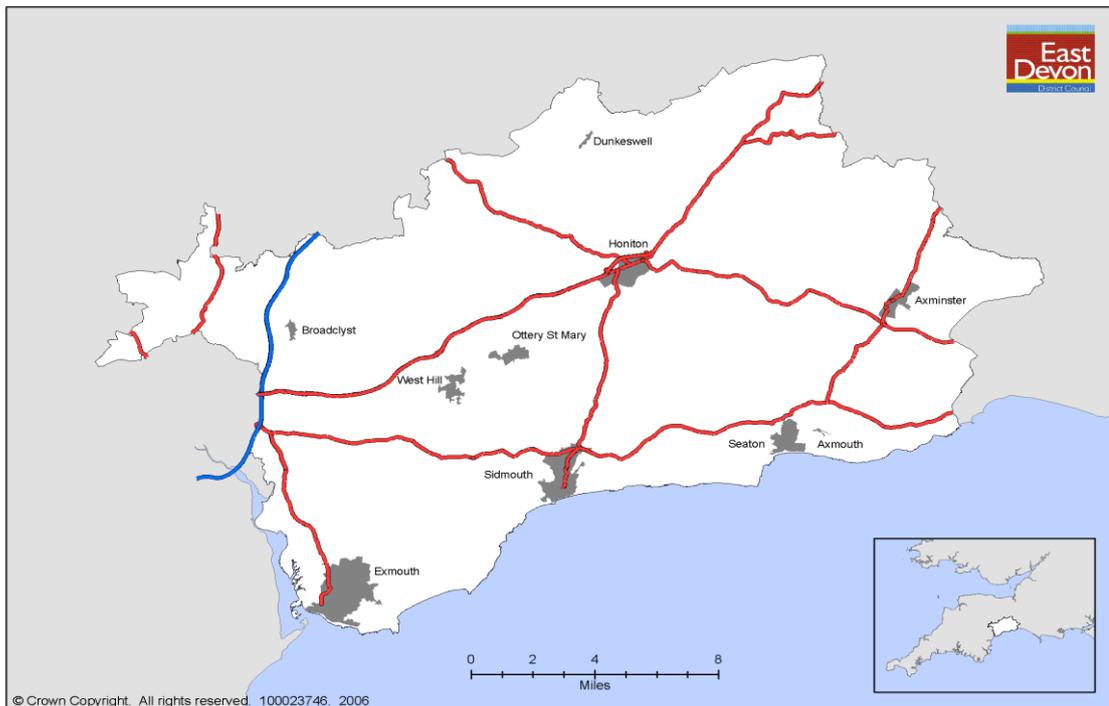
- 1.5 A 'sex establishment' is defined under the Act as a 'sex shop', a 'sex cinema' or a 'sexual entertainment venue'. Full definitions of those and other relevant terms can be found in **Appendix A**. This appendix also provides detail on when a sexual entertainment venue is exempt from the provisions of the Act.
- 1.6 Sex establishments include any premises, vehicle, vessel or stall used as a sex establishment but does not apply to the sale, supply or demonstration of articles which are manufactured for use primarily for the purposes of birth control or primarily relate to birth control.

The Geographical Area

- 1.7 East Devon is one of eight Devon districts and, in population terms, it is the largest in the County.
- 1.8 The District has a dispersed and mainly rural population. The rural nature of the area is emphasised by the low population density of ~~1.67 per hectare~~ **175 per square km** (the England and Wales average is ~~3.4~~ **427**. **Of our 32 wards 21 of the have a population density below the England average. The District is fully parished with 68 Town and Parish Councils.** Areas of Outstanding Natural Beauty and the World Heritage Coast cover a high proportion of the District.
- 1.9 The main settlements comprise the coastal resorts of Exmouth (Devon's largest town – population ~~35,762~~ **48,613**), Budleigh Salterton, Sidmouth and Seaton. In the mainly rural inland area the settlements comprise Honiton, Ottery St Mary, and Axminster. There are numerous villages and hamlets.



1.10 The District's population estimates stand at ~~135,643~~ 142,300: 63,900 males and 68,900 females. Predominantly East Devon residents are from a white British background. Just 1.59% of the district's population is from an ethnic background ~~The black and ethnic minority population of East Devon is considerably small—only 2.5% (3400 people described their ethnic group as non-white in the 2006 ethnicity census, with Mixed race being the single largest grouping at 1,100).~~



The population of East Devon has an older age profile with the average age of its residents being 50.7 years (national average is 40.1 years). East Devon has a highest age profile of all of the districts in Devon with the largest percentage of those aged 65+ at 30.06%, this equates to 42,758 people.

~~East Devon also has a high percent of elderly residents with 34% of the population over 60 years of age.~~

- 1.11 ~~The overall population is expected to increase by 14,300 people between 2017 and 2027, a rise of 10%. East Devon population is set to grow over the next few years, projected to reach 145,800 in 2016 although this is less than had been projected before the recession. Currently those in 60 to 64 year aged 65+ form the largest age group in the district.~~
- 1.12 The entertainment industry within the District is a major contributor to the economy of East Devon. ~~South West Tourism data shows the financial contribution of visitors to the economy of East Devon~~ # attracting tourists and visitors, makes for vibrant towns and communities and is a major employer

(Sources of data: Knowing East Devon – Release 4 May 2019)

Policy Development

- 1.13 This Licensing Policy sets out the policies the Council will generally apply when making decisions on applications. This document explains the application process and provides information on what is expected of applicants. In addition, the processes by which representations may be made about an application are explained.
- 1.14 Whilst this policy stands alone, applicants are advised to also have regard to the Council's Licensing Act 2003 Policy which may impact on applicants, particularly those wishing to undertake other licensable activities such as the retail sale of alcohol.
- 1.15 In addition to considering the requirements of the Act, consideration has been given to the following requirements in developing this policy:
- (a) Section 17 of the Crime and Disorder Act 1998 to take all reasonable steps to reduce crime and disorder within the district;
 - (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) proportionate to that public interest objective;
 - (iv) clear and unambiguous;
 - (v) objective;
 - (vi) made public in advance; and
 - (vii) transparent and accessible.
- 1.16 At the time of adopting this policy, the Council has no licensed sex establishments. ~~but there is one premises that falls within the new definition of a sexual entertainment venue. Under the legislation this business has twelve months from the 1 February 2011 to become licensed or to stop trading in its current form.~~

Consultation

- 1.17 ~~The public consultation in relating to the draft policy~~ The Council has had due regard of the need to consider public consultation which took place between the 1 March 2011 and



the 25 May 2011 when fully adopting the policy. ~~, in line with the HM Government Code of Practice on Consultation (published July 2008), which is available at www.berr.gov.uk/files/file47158.pdf. Consultation was conducted with local residents, the statutory responsible authorities under the Licensing Act 2003, and holders of premises licences under the Licensing Act 2003 in the District.~~

Amendments to Policy

- 1.18 Any significant amendment to this policy will only be implemented after further consultation with those who are likely to be affected by the amendments. If required this will include existing licence holders and statutory responsible authorities under the Licensing Act 2003. ~~The revision of more minor details within this policy such as changes to geographic data and updating contact information will not require consultation unless impacting upon points 1.19 (a to c).~~
- 1.19 For the purposes of clarity any significant amendment is defined as one that:
- (a) is likely to have a significant financial effect on the licence holders, or
 - (b) is likely to have a significant procedural effect on the licence holders, or
 - (c) is likely to have a significant effect on the community.
- 1.20 Any minor amendment to this policy may be authorised by the ~~Strategic Lead, Licensing and Governance Corporate Legal and Democratic Services Manager~~ in consultation with the Chairman of the Licensing and Enforcement Committee.
- 1.21 The Authority will review the Policy when it identifies a need or as required by legislation changes or following government guidance.

Exchange of Information

- 1.22 The authority may from time to time exercise its' powers under section 115 of the Crime and Disorder Act 1998 to exchange data and information with the police and other partners to fulfil its statutory objective of reducing crime in the area.
- 1.23 Details of applications and objections which are referred to a Licensing 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.
- 1.24 The names and addresses of objectors will not be disclosed to applicants or published in public reports in accordance with the Act. Such details will be made available to Councillors on the Licensing Sub-Committee.

Further Information

- 1.25 Should you have comments regarding this policy please write to the address on the front of this document or email licensing@eastdevon.gov.uk.
- 1.26 Relevant legislation can be viewed at www.opsi.gov.uk.



2.0 Primary Considerations

- 2.1 East Devon District Council being the Licensing Authority for the purposes of the Act recognises that it can set a quantity limit in relation to the number of sex establishments in an area but has not chosen to do so based on the specific geographical characteristics and nature of this District.
- 2.2 Whilst the Council has not imposed a limit on the number of premises that may be licensed in any area, and whilst treating each application upon its own merits, the Council will not licence premises in proximity to:
- (a) a predominantly residential area;
 - (b) premises, areas or access routes to such premises or areas which are designed for or attract children or families, such as school, play areas, parks, children's centres, youth clubs, nurseries or leisure facilities, or any other similar establishment;
 - (c) a place of public religious worship;
 - (d) historic buildings and conservation areas, cultural and tourist attractions;
 - (e) educational establishments;
 - (f) community facilities and public buildings;
 - (g) an area with a history of social difficulties;
 - (h) a gateway to an identifiable locality.

3.0 The Application and Determination Process

Making an Application

- 3.1 Whilst not required, the council would normally expect that applications for licences for permanent commercial premises should be from businesses with planning consent for the property concerned.
- 3.2 The Authority expects that applicants will have consulted with local residents, businesses and/or community groups in the vicinity of the premises so far as is reasonable practicable.
- 3.3 Applicants are advised to consult the Licensing Authority's pool of sex establishment conditions in order to ascertain the standard of the premises required, and the types of controls typically applied.
- 3.4 The Authority recognises that a partnership approach is more likely to ensure the licensing objectives are achieved and maintained. Pre-application discussions between the applicant, the Council's Licensing Service and other relevant agencies will be encouraged so that the licensing process can be as trouble free as possible.
- 3.5 Applications in respect of premises must state the full address of the premises. Applications in respect of a vehicle, vessel or stall must also state where it is to be used as a sex establishment.
- 3.6 Applications should be made in line with **Appendix B** to the policy, which explains the Council's application process including that required by legislation. Examples of these requirements include the requirement to notify the Police of an application and the display and publication of public notices giving notice of the application. Application forms can be downloaded from the Council's web site, completed online or are available upon request to the Council's Licensing Service.
- 3.7 An application form and relevant documentation for the new licence, renewal, variation or transfer must be completed and returned with the appropriate fee as set down by the Council. The current fee levels can be obtained by reference to the Council's Licensing Service.

Duration of Licences

- 3.8 Licences will generally be issued on an annual basis but can be issued for a shorter term if deemed appropriate.

Commenting on Licence Applications

- 3.9 Unlike some other licensing regimes (for example those 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. Objectors should have something to say which is relevant to the statutory grounds for refusal that are set out in the Act.
- 3.10 Representations must state the grounds on which the objection/positive representation is made. Objections must be made in writing and should ideally:
 - be made in black ink;



- indicate the name and address of the person or organisation making the representation;
 - indicate the premises to which the objection relates;
 - indicate the proximity of the premises to the person making the representation.
- 3.11 Representations may only be made within the period of 28 days following the date on which the application was given to the Licensing Authority.
- 3.12 The Licensing Authority will not normally consider any objection or positive representation that does not contain the name and address of the person making it.
- 3.13 Representations received that are frivolous or vexatious or which relate solely to moral grounds are likely to be given lesser weight.
- 3.14 A vexatious objection is generally taken to be one which is repetitive, without foundation or made for some other reason, for example - malice. A frivolous objection is generally taken to be one that is lacking in seriousness.
- 3.15 Where representations 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 the objector's permission to do so.

Determination of Applications

- 3.16 When considering applications, the Licensing Authority will have regard to:
- The Local Government (Miscellaneous Provisions) Act 1982 (as amended);
 - Any supporting regulations;
 - This Licensing Policy
 - Any supporting Government Guidance
- 3.17 This does not, however, undermine the rights of any person to apply for a licence and have the application considered on its individual merits, nor does it override the right of any person to make objections on any application where they are permitted to do so under the Act.
- 3.18 When determining applications, the Licensing Authority will take account of any comments made by the Chief Officer of Police and any representations made.
- 3.19 We take the following approach to deciding applications:
- Each application will be decided upon its merits. This authority will not apply a rigid rule to its decision making;
 - Objectors can include residents'/tenants' associations, community associations and trade associations. Councillors and MPs may also raise objections. Elected councillors may represent interested parties providing they do not also sit on the Licensing Sub-Committee determining the application in question;
 - We will give clear reasons for our decisions.
- 3.20 Where objections are made and not withdrawn, a hearing before a Licensing Sub Committee will normally be held within 20 working days of the end of the period during which representations may be made, unless all parties agree that a hearing isn't necessary.

- 3.21 Objections will be considered by a Licensing Sub Committee, where both applicants and objectors will be provided with an equal opportunity to address the Sub Committee.

Conditions

- 3.22 As provided for by Paragraph 13 of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 the Authority will maintain a set of “standard conditions” to be attached to each sex establishment licence granted, renewed or transferred by the Authority unless expressly excluded or varied. The standard conditions will be kept under review by the Council’s Licensing and Enforcement Committee and if the need is identified separate sets of standard conditions will be maintained for sex shops, sex cinemas and sexual entertainment venues. Further conditions may be attached to individual licences where the authority considers it necessary. A copy of the District Council’s CCTV Standards Policy appear at **Appendix C** and a copy of the District Councils Standard Licensing Conditions appear at **Appendices D and E**.
- 3.23 Should the Authority decide to grant a licence issues that it may seek to restrict by way of condition are:
- The hours of opening and closing
 - Display and advertisements on or in the sex establishment
 - The visibility of the interior of a sex establishment to passers-by
 - Any change of use from one kind of sex establishment to another
- 3.24 The Authority will seek to avoid duplicating licence conditions where a premises holds licences under both the Licensing Act 2003 and the Local Government (Miscellaneous Provisions) Act 1982.

Opening Hours

- 3.25 In the case of sex establishments (other than Sexual Entertainment venues), for example shops and cinemas, the Licensing Authority will normally expect that these premises will only open between 9.30 am and 6.00 pm and remain closed on Sundays, all bank holidays and public holidays.
- 3.26 In the case of sexual entertainment venues the Licensing Authority will normally expect that these premises to only provide sexual entertainment between the hours of 12 noon and 12 midnight on Mondays to Saturday inclusive. However in the case of premises that already hold a Premises licence under the Licensing Act the opening hours will normally be no earlier than 12 noon or the start time for the regulated entertainment of dancing at those premises whichever is the later and the closing time no later than the closing time for the premises as shown on the Premises licence issued under the Licensing Act 2003.

Refusal of licences

3.27 Except where the council is prohibited from granting, renewing, varying or transferring a licence, the council will not refuse a licence without first:

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

Mandatory Grounds for Refusal

3.28 The council must refuse to grant or transfer a licence to:

- (a) A person under the age of 18;
- (b) A person who is for the time being disqualified from holding a licence;
- (c) A person who is not resident in an EEA state or was not so resident throughout the period of 6 months immediately preceding the date upon which the application was made;
- (d) A body corporate which is not incorporated in an EEA state; or
- (e) A person who has, within the period of 12 months immediately preceding the date upon which the application was made, been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.

Discretionary Grounds for Refusal

3.29 An application for grant or renewal of a licence may be refused on one or more of the grounds shown below:

- (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, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application himself;
- (c) That the number of sex establishments in the relevant locality that the application is made is equal to or exceeds the number which the council considers is appropriate for that locality (nil may be an appropriate number for these purposes).
- (d) That the grant or renewal of the 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.

3.30 An application for transfer of a licence may be refused on either or both of the grounds shown in paragraphs (a) and (b) in paragraph 3.28 above.

Revocation of licences

3.31 The council may revoke a licence:

- on any of the grounds specified in paragraph 3.27 (Mandatory Grounds for Refusal);
- on either of the discretionary grounds specified in paragraph 3.28 (a) and (b).

3.32 The council will not revoke a licence without first giving the holder of the licence the opportunity of appearing and making representations before a Licensing Sub Committee.

Cancellation of licences

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

3.34 In the event of the death of a licence-holder, the licence will be deemed to have been granted to his personal representatives and will remain in force for 3 months from the date of death, unless previously revoked.

3.35 Where the council are satisfied that it is necessary for the purpose of winding up the estate of the deceased licence-holder, it may extend or further extend the period in which the licence remains in force.

Appeals

3.36 Section 27 of the Act permits appeals by the applicant/licence holder against the decisions of the Council in relation to sex establishments. The Magistrate's Court will hear appeals in the first instance. Under normal circumstances a request for an appeal must be made to the Magistrates Court within 21 days of the Council's decision being notified to the applicant/licence holder.

3.37 An appeal can be made in the following circumstances:

- Refusal of an application for the grant, renewal or transfer of a licence.
- Refusal of an application to vary terms, conditions, or restrictions on or subject to which any licence is held.
- A grievance relating to any term, condition or restriction on or subject to which a licence is held.
- Revocation of a licence.

3.38 There is a right of appeal against refusal on mandatory grounds, only where the appellant alleges the ground did not apply to them.

3.39 There is no right of appeal against refusal on the grounds that there are sufficient sex establishments in the locality or that to grant would be inappropriate having regard to the character of the locality, use of premises in the vicinity and the layout, character, condition and location of the premises.

3.40 There is no right of appeal for objectors.



3.41 A person wishing to appeal against a Council decision on a sex establishment is strongly advised to seek legal advice prior to commencing any action in a Court of Law.

4.0 Complaints and Enforcement

- 4.1 Where possible and appropriate the council will give early warning to licence holders of any concerns about problems identified at premises and of the need for improvement.
- 4.2 The council is responsible for the administration and enforcement of the licensing regime and will have regard to the Department of Business Enterprise & Regulatory Reform's Regulators' Compliance Code, the Better Regulation Commission's five Principles of Good Regulation and the Licensing Services' own enforcement policy. The council will carry out its regulatory functions in a fair, open and consistent manner.
- 4.3 Specifically, the council is committed to:
- (a) be proportionate – to only intervene when necessary and remedies will be appropriate to the risk posed;
 - (b) be accountable – to justify decisions, be subject to public scrutiny and allow opportunities to resolve differences before enforcement action is taken, unless immediate action is needed;
 - (c) be consistent – to implement rules and standards fairly;
 - (d) be transparent – to be open and to provide clear explanations of what is needed, by when and the rights of appeal.
 - (e) target its regulatory action at cases in which action is needed.
- 4.4 The council recognises the interests of both citizens and businesses and will work closely, with partners, to assist licence holders to comply with the law and the conditions attached to the licence. However, proportionate but firm action will be taken against those who commit serious offences or consistently break the law or breach the conditions of the licence.
- 4.5 The council has set clear standards of service and performance that the public and businesses can expect. In particular, an enforcement policy has been created that explains how the council will undertake its role and how the principles of effective enforcement will be achieved.
- 4.6 This policy is freely available from the Licensing Service as are details of the corporate complaints procedures, both of which can also be viewed on the Council's web site.

□ Definition of a 'Sex Establishment'

A 'Sex Establishment' is defined under the Act as a 'Sex Shop', a 'Sex Cinema' and a 'Sexual Entertainment Venue'.

It includes any premises, vehicle, vessel or stall used as a sex establishment but does not include a private dwelling to which the public are not admitted.

□ Meaning of a 'Sex Cinema'

'Sex Cinema' means any premises, vehicle, vessel or stall used to a significant degree for the exhibition of moving pictures, by whatever means produced, which:

- (a) Are concerned primarily with the portrayal of, or primarily deal with or relate to, or are intended to stimulate or encourage:
 - (i) sexual activity; or
 - (ii) acts of force or restraint which are associated with sexual activity
- (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.

□ Meaning of a 'Sex Shop'

'Sex Shop' means any premises, vehicle, vessel or stall used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating:

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

• 'Sex Article' means:

- (a) anything made for use in connection with, or for the purpose of stimulating or encouraging:
 - (i) sexual activity; or
 - (ii) acts of force or restraint which are associated with sexual activity
- (b) anything to which sub paragraphs (1) and (2) below applies.

This sub paragraph applies –

- (1) 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
- (2) 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

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

- **Sex Articles and Significant Degree**

Licences for sex shops are required where 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, (as explained previously) 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:

- (a) the ratio of sex articles to other aspects of the business;
- (b) the absolute quantity of sales;
- (c) the character of the remainder of the business;
- (d) the nature of the displays in the business;
- (e) turnover;
- (f) other factors which appear to be materially relevant.

- **Meaning of a ‘Sexual Entertainment Venue’**

A ‘sexual entertainment venue’ means:

“any premises at which relevant entertainment is provided before a live audience for financial gain of an organiser. For the purposes of the Act it does not matter whether the financial gain arises directly or indirectly from the performance or display of nudity.”

- **‘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). An audience includes an audience of one.

- A **‘display of nudity’** means:

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

- An **organiser** means:

Any person who is responsible for the organisation or management of;

- (a) The relevant entertainment; or
- (b) The premises.

- **Exempt Premises**

The following are not sexual entertainment venues for the purposes of this policy:

- (a) premises at which the provision of relevant entertainment is such that:
 - (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;
 - (ii) no occasion has lasted for more than 24 hours; and



- (iii) no 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

For the purposes of this policy, relevant entertainment is provided if, and only if, it is provided, or permitted to be provided, by or on behalf of the organiser before an audience and involves partial or full nudity.

Note: Whilst the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009 provides this exemption from the need to have a sex establishment licence in the circumstance set out above there is no exemption from the Licensing Act 2003 where licensable activities take place. This includes dancing and the sale of alcohol.

Requirements for Applying for Grant, Variation, Transfer or Renewal of a Sex Establishment Licence

1. Grant of a licence

To apply for the grant of a sex establishment licence an applicant must: -

- (a) send to the council: -
 - i) a completed application form (copies can be obtained from the Council's Licensing Service);
 - ii) a plan to the scale of 1:100 of the premises to which the application relates;
 - iii) a non-returnable application fee determined from time to time by the Licensing Authority [currently set at the time of the approval of this policy at £2,000];
 - iv) a 'hearings' fee determined from time to time by the Licensing Authority [currently set at the time of the approval of this policy at £4,000] (returnable if a committee hearing is not required);
- (b) display a notice on or near the premises (template notice available from the Council's Licensing Service);
- (c) advertise the application in a local newspaper (template notice available from the Council's Licensing Service);
- (d) send a copy of the application and plan to the Chief Officer of Police, Licensing Office, Devon & Cornwall ~~Police Constabulary, Police Station, Exmouth, EX8 1JZ~~ within 7 days of making the application to the council.

2. Plan requirements

2.1 The plan shall show: -

- (a) the extent of the boundary of the building, if relevant, and any external and internal walls of the building and, if different, the perimeter of the premises;
- (b) the location of points of access to and egress from the premises;
- (c) the location of escape routes from the premises;
- (d) in a case where the premises is to be used for more than one licensable activity, the area within the premises used for each activity;
- (e) fixed structures (including furniture) or similar objects temporarily in a fixed location (but not furniture) which may impact on the ability of individuals on the premises to use exits or escape routes without impediment;
- (f) in a case where the premises includes a stage or raised area, the location and height of each stage or area relative to the floor;
- (g) in a case where the premises includes any booths the location and area relative to the floor;
- (h) in a case where the premises includes any steps, stairs, elevators or lifts, the location of the steps, stairs, elevators or lifts;
- (i) in the case where the premises includes any room or rooms containing public conveniences, the location of the room or rooms;

- (j) the location and type of any fire safety and any other safety equipment including, if applicable, marine safety equipment; and
- (k) the location of a kitchen, if any, on the premises.

2.2 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.

2.3 Applicants should be aware that the Fire Authority will require a suitable risk assessment to be carried out by the responsible person “in order to ensure the safety of all relevant people”.

3. Public notices

3.1 A notice must be displayed at or on the premises to which the application relates for a period of not less than 21 consecutive days from the day following the day the application was given to the council, where it can be conveniently read from the exterior of the premises.

3.2 Where the premises cover an area of more than 50 square meters, a further identical notice must be displayed every 50 metres along the external perimeter of the premises abutting any highway.

3.3 The notice must be on white paper sized A4 or larger and printed legibly in black ink or typed in black in a font size equal to or larger than 16. A template of a blank notice can be obtained on request from the Council’s Licensing Service.

3.4 The notice must state: -

- (a) details of the application and activities that it is proposed will be carried on or from the premises,
- (b) the full name of the applicant,
- (c) the postal address of the premises, or in the case where there is no postal address, a description of the premises sufficient to enable the location and extent of the premises to be identified,
- (d) the date, being at least 28 days after that on which the application is given to the council, by which representations may be made to the council and that representations should be made in writing,
- (e) that it is an offence knowingly or recklessly to make a false statement in connection with an application and the maximum fine (£5,000) for which a person is liable on summary conviction for the offence.

3.5 A similar notice must be published in a local newspaper within 7 days of giving the application to the council.

4. Variation of a licence

4.1 The holder of a licence may apply at any time for any variation of the terms, conditions or restrictions on or subject to which the licence is held.

4.2 The process of applying for a variation is the same as that for applying for an initial grant except that a plan of the premises is not required unless the application involves structural alterations to the premises.

5. Renewal of a licence

5.1 The holder of a licence may apply for renewal of the licence. In order for the licence to continue to have effect during the renewal process, a valid application together with the appropriate fee must be submitted before the current licence expires.



5.2 The process of applying for renewal of a licence is the same as that for applying for an initial grant except that a plan of the premises is not required.

6. Transfer of a licence

6.1 A person may apply for transfer of a licence at any time.

6.2 The process of applying for transfer of a licence is the same as that for applying for an initial grant except that a plan of the premises is not required.

CCTV Standards Policy

Where the provision of CCTV system is a requirement of the conditions of a Sex Establishment licence the system must comply with at least the East Devon District Council's CCTV minimum standard. This has been set in consultation with the police to ensure that the systems provide a tool to prevent criminal and anti-social behaviour and to ensure that the images provided by the systems meet the recognition and identification standards necessary for the detection and prevention of crime and disorder.

The Minimum Standard

- (1) All installed CCTV systems must be of an evidential standard and installed and operated to the satisfaction of the Licensing Authority and the Police. It should cover all areas to which the public have access, excluding, where relevant, the inside of toilets. Images must be recorded at a frame rate no less than 25 frames per second. All cameras located on entrances must be able to produce images of an evidential standard as defined by the Home Office Guidance Manual or any guidance replacing it. Entrance cameras must be capable of providing good quality head and shoulder images of persons entering/leaving the premises. They should be high-resolution colour cameras complete with an auto iris vari-focal lens. Cameras in the main areas of the premises must be able to cope with the extreme lighting conditions that may be present. The cameras, recording equipment and all ancillaries should be maintained according to the manufacturers' instructions to ensure that the standard of the image is not compromised.
- (2) The numbers of cameras located within the premises and where appropriate for external coverage must be appropriate for the type of licensing activity carried out at the premises. The numbers of cameras, locations and views provided by these cameras must be to the satisfaction of the East Devon District Council as the Licensing Authority and Police. All cameras must provide evidence of identification and be correctly maintained.
- (3) Where, to satisfy the East Devon District Council and the Police, there is a requirement to provide an external camera for coverage of entrances it must be a high resolution, minimum of 450tvl colour day/night camera, complete with an auto iris vari-focal lens, fitted in a heated weatherproof external housing.
- (4) In all areas where cameras are operating including externally the lighting must be of sufficient brightness to complement the quality of the camera images.
- (5) The CCTV recordings must be stored on a digital multiplex recorder with either an on board CD/DVD re-writer and/or a USB port for evidence recovery.
- (6) The system must be capable of producing single images and forward, reverse, pause and slow motion at full screen resolution.
- (7) CCTV images must be retained for a minimum of 14 days and be produced on the request of the Police or a Licensing Officer of East Devon District Council. Recording media must be set to 25 frames per second.

- (8) Recordings of incidents occurring at the premises must be made secure and held for possible inspection.
- (9) All equipment shall have constant time/date generation.
- (10) Unless otherwise agreed in writing by the Licensing Authority there must be sufficient members of trained staff available during the hours of operation to be able to download evidence at the request of the police including the creation of evidential discs. Where an exemption to this requirement is agreed in writing then the evidence requested must be provided no later than 48 hours after the request.
- (11) Premises licence holder must be able to demonstrate that they have devised a recording management system that prevents recordings being tampered with, stolen, misplaced or failure to record. Recording equipment must be housed in a secure room/cabinet where access is restricted and the operation is strictly limited to authorised persons.
- (12) The CCTV system must be operational at all times whilst the premises are trading. If the system is faulty or not working then the Police and East Devon Council's Licensing Service must be informed immediately. Details of the malfunction must be recorded in the premises incident book.
- (13) A4 sized warning notices must be displayed in public areas of the premises and at all entrances advising that CCTV is in operation. The signs located at entrances should be located on the exterior of the building at, and adjacent to, all public access doors. All signs must comply with the requirements of the Data Protection Act [2002](#).

Sex Establishment Licensing Conditions



Standard Sex Shop Conditions

- 1) Where any special conditions appear on any licence issued by the Council which appear to be inconsistent with these regulations, the regulations shall prevail.
- 2) The grant of a licence for a sex shop shall not be deemed to convey any approval or consent which may be required under any enactment, bye-law, regulation or order other than the Third Schedule to The Act.
- 3) Where marginal notes and headings have been inserted in these regulations, this has been done for the purpose of information and convenience only and shall not affect in any way the meaning or construction thereof.
- 4) The Council reserves the right from time to time in any special case to add to or modify these Licence Conditions.

Opening Times

- 5) Except with the prior consent of the Council, a Sex Shop shall not be open to the public before 9 am and shall not be kept open after 6 pm.
- 6) Sex shops must not operate on Good Friday, Easter Sunday, Christmas Day, and Boxing Day.

Conduct and Management

- 7) 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 is to be notified in writing to the Council within 14 days of such change and such written details as the Council may require in respect of any new Director, Secretary or Manager are to be furnished within 14 days of a request in writing from the Council.
- 8) The Licensee or some responsible person nominated by him in writing for the purpose of managing the Sex Shop in his absence and of whom details (including photographs) have been supplied to and approved in writing by the Council shall be in charge of and upon the Premises during the whole time they are open to the public.
- 9) The name of the person responsible for the management of a Sex Shop at any particular time it is open to the public shall be prominently displayed within the premises throughout the time he or she is responsible for its conduct.



- 10) 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 Shop in his or her absence and the names and address of all those employed in the Sex Shop. The Register is to be completed each day of the Sex Shop opening for business and is to be available for inspection by the Police and Authorised Officers of the Council.
- 11) The Licensee shall retain control over all portions of the Premises and shall not let, licence or part with possession of any part of the Premises.
- 12) The Licensee shall maintain good order in the Premises.
- 13) No person under the age of 18 years shall be admitted to the Premises or employed in any position with regard to the business of a Sex Shop.
- 14) The Licensee shall ensure that the public are not admitted to any part of the Premises other than those parts which have been approved by the Council.
- 15) The Licensee shall ensure that no part of the Premises shall be used by prostitutes (male or female) for soliciting or for any immoral purpose.
- 16) Neither the Licensee nor any employee or other person shall seek to obtain custom for the Sex Shop by means of personal solicitation outside or in the vicinity of the Premises.
- 17) The Licensee shall comply with all statutory provisions and any regulations made there under.
- 18) The Licensee shall ensure that during the hours the Sex Shop is open for business, every employee shall wear a badge of a type approved by the Council indicating his or her name and that he or she is an employee.
- 19) The copy of the Licence and of these Regulations required by be exhibited in accordance with Paragraph 14(1) of Schedule 3 to the Act shall, if reproduced, be to the same scale as the originals issued by the Council. The copy of the Licence required to be displayed as aforesaid shall be suitably framed and a copy of these regulations shall be retained in a clean and legible condition.

Use

- 20) A Sex Shop shall be conducted primarily for the purpose of the sale of goods by retail.
- 21) The Premises shall only be used as a shop.
- 22) No residential use shall be made of any part of the Premises unless a separate access is provided from the outside of the Premises.
- 23) No change of use of any portion of the Premises from that approved by the Council shall be made until the Consent of the Council has been obtained thereto.

Goods available in Sex Shops

- 24) All Sex Articles and other things displayed for sale, hire, exchange or loan within a Sex Shop shall be clearly marked to



show to persons who are inside the Premises the maximum prices to be charged.

- 25) All printed matter offered for sale, hire, exchange or loan shall be available for inspection prior to purchase and a notice to this effect shall be prominently displayed within the Sex Shop.
- 26) No film or video film shall be exhibited, sold or supplied unless it complies with the Videos Recording Act 2010 and is a reproduction authorised by the owner of the copyright of the film or video film so certified.
- 27) The Licensee shall, without charge, display and make available in the Sex Shop such free literature on counselling in relation to sexual problems, published by any organisation as may be specified by the Council. Such literature is to be displayed in a prominent position approved by the Council adjacent to all sale points in the Sex Shop.
- 28) No display, advertisement, word, letter, model, sign, placard, board, notice, device, representation, drawing, writing, or any matter or thing (whether illuminated or not) shall be exhibited so as to be visible from outside the premises except: -
 - (a) Any notice of a size and in a form approved by the Council which is required to be displayed so as to be visible from outside the premises by law, or by any condition of a Licence granted by the Council.
 - (b) Such display, advertisement, word, letter, model, sign, placard, board, notice, device, representation, drawing, writing, or any matter or thing as shall have been approved by the Council.
- 29) The entrances to the Premises shall be of a material or covered with a material which will render the interior of the Premises not visible to passers by.
- 30) Windows and openings to the Premises other than entrances shall not be obscured otherwise than with the consent of the Council but shall have been suspended behind them, in a position and at an attitude approved by the Council, opaque screens or blinds of a type and size approved by the Council. This Regulation shall not be construed as lessening the obligation of the Licensee under Regulation 28 hereof.

State, Condition and Layout of the Premises

- 31) All parts of the Premises shall be maintained in good repair and in a clean and wholesome condition.
- 32) A lobby area shall be provided at the entrance to the shop to ensure that the inside of the shop is not visible when the front door is opened.
- 33) Lighting in all parts of the Premises as approved by the Council shall be in operation continuously during the whole of the time that the Sex Shop is open to the public.
- 34) The number, size and position of all doors or openings provided for the purposes of the ingress and egress of the public shall be approved by the Council and shall comply with the following requirements
 - (a) All such doors or openings approved by the Council shall be clearly indicated on the inside by the word "EXIT".
 - (b) Doors and openings which lead to parts of the Premises to which the public are not permitted to have access shall have notices placed over them marked "PRIVATE".



- (c) Save in the case of emergency, no access shall be permitted through the Premises to any unlicensed Premises adjoining or adjacent.
- 35) The external doors to the Sex Shop shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.
- 36) The Licensee shall make provision in the means of access both to and within the Sex Establishment for the needs of members of the public visiting the Sex Establishment who are disabled.
- 37) 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.
- 38) Alterations or additions either internal or external and whether permanent or temporary to the structure, lighting or layout of the Premises shall not be made except with the prior approval of the Council.

Safety

- 39) The Licensee shall take all reasonable precautions for the safety of the public and employees.
- 40) The Licensee shall comply with any fire precautions and safety measures that may be required of him by East Devon District Council or **Devon and Somerset Fire and Rescue Fire-Authority**.
- 41) The Premises shall be provided with fire appliances suitable to the fire risks of the Premises and such fire appliances shall be maintained in proper working order and shall be available for instant use.

Standard Sex Entertainment Venue Conditions

General

- 1) The Licensee must remain in personal control of the Premises at all times or nominate an individual in writing over the age of 18 with the authority to organise/arrange/facilitate activities within the Premises.

Management Operation Manual (A guide to the safe operation of the venue including safety and security information)

- 2) The Licensee must produce a Management Operation manual detailing all aspects of procedure when the Premise is operating the relevant entertainment. This document shall be regularly reviewed and be available for inspection by East Devon District Council, Police or civilian Police Licensing Officers upon request.
- 3) Control measures must be in place as part of the Management Operation Manual to ensure the safety of performers when they leave the Premises following a period of work.

House Rules (A guide to the acceptable conduct of customers and performers)

- 4) The Premises must provide a copy of its House Rules or any revisions to the Council and the Police before the premises open under its Sex Establishment Licence.
- 5) The Licensee must ensure that all performers and staff, including door supervisors, shall be made aware of the House Rules.
- 6) All dancers, staff and door supervisors shall read a copy of the House Rules relating to operating relevant entertainment. They shall sign and date a copy which shall be retained by the Premises as part of their due diligence. They shall be available for inspection by East Devon District Council, Police or civilian Police Licensing Officers upon request.
- 7) A clear copy of these conditions and the House Rules shall be exhibited at all times in or near the performers' changing room(s) in such a manner as they can be read by the performers. These conditions shall be protected against theft, damage or defacement.
- 8) A large print copy of the House rules must be clearly displayed at the entrance/lobby of the premises and each customer shall be advised of the House rules prior to entry.
- 9) House Rules on the performance of relevant entertainment will be displayed throughout the Premises and be clearly visible to customers. This will include any private individual booth area. The use of table/bar notices or prominent signage throughout the premises would be satisfactory.

Staff

- 10) The Licensee shall ensure that all performers and all staff working within the sexual entertainment venue, if not a United Kingdom citizen, hold the required Work Permit.

Performers

- 11) 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 using recognised photographic documentation, such as a passport or driving licence. Copies of these documents must be retained by the premises licence holder from the date of the start of employment for at least 12 months after the performer left the licence holder's employment.
- 12) A log book shall be maintained on the Premises detailing the names, start and finish times, of the individual performers involved in all forms of adult entertainment.
- 13) Performers must remain clothed in public areas and all other areas except while performing in areas specified by the Council as where sexual entertainment may be provided.
- 14) No performer shall be allowed to work if, in the judgement of the management, they appear to be intoxicated or under the influence of illegal substances.
- 15) Performers must get dressed at the end of each performance to the extent that their breasts and genitals are fully covered.
- 16) Performers shall not accept any telephone number, email address, address or contact information from any customer.

Performances

- 17) Performers shall only perform on the stage area, to seated customers or in such other areas of the licensed premises as may be agreed in writing with the Council.
- 18) There shall be no physical contact between customers and the performers except for the placing of money or tokens into the hands of the dancer or into an arm band, waistband, garter or similar receptacle at the beginning or conclusion of a performance.
- 19) Customers must be seated in an upright position against the back of the booth or seat with either their hands by their sides or under their buttocks (sitting on their hands), depending on the house rules, before a dancer can start a table or private dance.
- 20) Performers must not:
 - (a) Climb onto any furniture unless provided as an on stage prop for the purpose of their performance.
 - (b) Simulate any sex acts.
 - (c) Undertake any performance involving a sex act with any other performer, persons in the audience or any object.
 - (d) Use inappropriate, suggestive or sexually graphic language at any time.
- 21) In the event of the relevant entertainment being performed for private viewing, the customer shall be informed of the duration



and price of the relevant entertainment, and the details shall be specified in a clearly visible notice in each area designed for private relevant entertainment.

Door Supervisors

- 22) Any individual employed on the Premises to conduct a security activity (within the meaning of section paragraph 2(1)(a) of schedule 2 to the Private Security Industry Act 2001) must be licensed by the Security Industry Authority or any replacement organisation.
- 23) An adequate number of registered Door Supervisors shall be on duty on the Premises whilst relevant entertainment takes place. There shall be at least one Door Supervisor on each entrance and in each separate part of the Premises. Provision must also be made for the security of performers, with either a door supervisor located at the entrance to the changing rooms or a secure entry mechanism such as a PIN door lock installed on the changing room door.

Customers

- 24) No person under the age of 18 shall be admitted to the Premises. Customers who appear to be under the age of 25 must be asked to provide approved photographic proof of their age, i.e. passport, driving licence or pass-scheme. The Licensee must provide prominent notices at each entrance to the Premises to this effect.
- 25) No customer shall be admitted to the Premises if, in the judgement of the management or the SIA door staff, they appear to be intoxicated, or under the influence of illegal substances.
- 26) Customers may not dance at any time except in areas specifically designated by the Council as being separate from areas for sexual entertainment.
- 27) Customers must remain appropriately clothed at all times.

Closed Circuit Television (CCTV)

- 28) CCTV must be installed, operated and maintained to the satisfaction of the East Devon District Council and the Chief Officer of Police in accordance with the requirements set out in the EDDC Sex Establishment Licensing Policy.
- 29) CCTV images must be retained for a minimum of 14 days and be produced on the request of the Police or a Licensing Officer of the East Devon District Council. Recording media must be set to 25 frames per second.
- 30) The CCTV system must be operational at all times whilst the premises are trading. If the system is faulty or not working then the Police and East Devon Licensing Service must be informed immediately. Details of the malfunction must be recorded in the premises incident book.
- 31) A4 sized warning notices must be displayed in public areas of the premises and at all entrances advising that CCTV is in operation. The signs located at entrances should be located on the exterior of the building at, and adjacent to, all public access doors. All signs must comply with the requirements of the Data Protection Act 2002.



- 32) CCTV shall be installed and maintained in all private performance areas to the satisfaction of the East Devon District Council and the Chief Officer of Police in accordance with the requirements set out in the EDDC Sex Establishment Licensing Policy.
- 33) Other than recordings made in accordance with the conditions relating to CCTV, no filming, recording or electronic transmission of performances shall take place without the prior consent of the Licensing Authority.

Layout of Premises and Safety of Performers

- 34) The approved activities shall only take place in the areas designated by the Licensing Authority.
- 35) A suitable system must be installed to ensure the safety of performers whilst in private booths. This should include a combination of CCTV and door supervisors and be fully documented as part of the Premises Management Operation Manual. Where the Premises is unable to satisfy East Devon District Council and/or the Police that the measures in place adequately protect performers, then all dance booths used as part of the approved activities must be equipped with a panic alarm for safety. Procedures shall be put in place to ensure that this alarm system is monitored at all times during approved entertainment.
- 36) The Licensee shall ensure to the Council's satisfaction (including, where required, necessary planning or building control consents) that the interior of the premises is not visible from the outside of the Premises, and that the exterior is maintained to a satisfactory level of decorum. At no point may dancers be visible from outside of the Premises.
- 37) The Licensee shall ensure that any occupancy limits set by East Devon District Council are not exceeded whilst sexual entertainment takes place on the premises.
- 38) Information shall be clearly displayed within the internal exit areas of all sexual entertainment venues, reminding customers to behave in a responsible and appropriate way towards all persons, after leaving the venue.

Advertising

- 39) 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.
- 40) Where the Council has 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 crime or to lead to disorder or to be offensive to public feeling, that advertisement shall not be displayed.
- 41) The Licensee shall not permit the display outside of the Premises of photographs or other images which indicate or suggest that striptease or similar entertainment takes place on the Premises and which may be offensive.



- 42) 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 distribute flyers direct to residential premises, advertising the venue.

Documentation

- 43) The Licensee shall provide in a timely fashion copies of any documents reasonably required by an authorised officer of the Council in relation to compliance with this Licence.